



September 30, 2025

Via email to:

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Re: Harmony Grove Village South Project

To the Board of Supervisors of the County of San Diego:

On behalf of the Sierra Club San Diego Chapter, we provide the following comments on the proposed Harmony Grove Village South development (“Project”), which will be considered by the County of San Diego’s (“County”) Board of Supervisors (“Board”) on October 1st, 2025.

The Sierra Club urges the Board to reject this Project, and emphasizes that the Board has the ultimate discretion to do so. The Project requests a General Plan Amendment (“GPA”) to increase the allowable density four times over.¹ The Project is textbook urban sprawl—not infill development—in a very high fire risk area that would generate high Vehicle Miles Traveled (“VMT”), all in direct contradiction of the alternative selected by the Board in adopting the County’s 2024 Climate Action Plan (“CAP”). A General Plan Amendment is a privilege for which there must be a overriding public benefit, which does not exist for this Project.

In the face of increasingly more severe and frequent wildfires, the Project proposes to add 453 new residential units in a Very High Fire Hazard Severity Zone (“VHFHSZ”),² while only providing one evacuation route for residents. (*Id.* at p. 1; FEIR, p. 8-108.) Additionally, the Project is located in an area where the average VMT exceeds the regional mean (i.e., in a “high-VMT area”),³ contributing to excessive and harmful greenhouse gas emissions. Furthermore, the Project would increase VMT in an already high-VMT area, in direct contradiction with the

¹ This Project, for which a Final Environmental Impact Report (“FEIR”) has been prepared, proposes a GPA, Specific Plan, Zone Reclassification, Vesting Tentative Map, Site Plan, and Major Use Permit. (Planning Commission Staff Report, p. 3.)

² <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones>.

³ <https://www.arcgis.com/apps/webappviewer/index.html?id=bb8f938b625c40cea14c825835519a2b>.

Board's recent directive to prioritize development in fire-safe and low-VMT areas through its approval of the Fire Safe and VMT Efficient Smart Growth Alternative as part of the CAP. Simply put, the Project is not general plan consistent, and the Board retains discretion to deny it and direct growth towards more suitable locales. Denial of the Project and associated GPA is imperative.

Sierra Club also urges the Board to consider whether this Project is necessary with so many other expected infill projects. Recent and upcoming changes to the legal landscape, including Senate Bill ("SB") 79, SB 131, and Assembly Bill 130, will result in a surge of projects that the Board and County will ultimately be obligated to approve. These bills will direct and streamline development projects towards "infill" areas as defined by the State. This Project does not qualify for any of these bills and proposes sprawling development in an area fundamentally unsuitable for such growth. In this instance, the Board has the authority to decide whether this Project may proceed and should exercise that discretion carefully.

I. Due To The Court of Appeal's Mandate, The Project Approvals Were Overturned and the Entirety of the EIR Was Wholly Decertified

As Sierra Club previously raised in its October 7, 2024, comments, attached as **Exhibit 1**, the *entire* EIR was decertified, not just the GHG section. The FEIR repeatedly tries to argue that *only* chapter 2.7, the FEIR's GHG chapter, was recirculated for public review, and that all other issues had been litigated and fully resolved, allegedly precluding the need for further analysis. (FEIR, pp. 8-85 to 8-101.) The Appellate Court expressly concluded that "*the GHG emission mitigation measure is intertwined with the EIR*," and "[a]s Sierra Club states, 'upon reexamination of mitigation measure M-GHG-1, the County may conclude additional alternatives are feasible or must be analyzed. Changes to project requirements driven by changes to [the measure] *might require revision to various impacts areas, including, for example, traffic and circulation and air quality impacts.*'" (*Sierra Club v. County of San Diego* (Dec. 21, 2021) D077548, D077972, emphasis added.)

In response to this comment, the County attempts to deny the applicability of this ruling by arguing that the court was only referring to another project at issue in the same litigation. (FEIR, RTC-ReO1-1.) Both projects utilized the same deficient GHG mitigation. While the proponents of Harmony Grove Village South raised different arguments in defense of their EIR, the Court found both proponents relied on an EIR that was deficient in its entirety. The Court's ruling was clear in that it denied the possibility of severing the deficient mitigation from the remainder of the EIR, as the deficiencies were pervasive. The Court's ruling is applicable to the Project and re-circulated EIR, and the County's attempts to distinguish fall short.

Regardless, the County recirculated the entirety of the FEIR's GHG section. (FEIR, p. 8-91.) The Sierra Club's most serious concerns regarding the Project relate directly to the FEIR's GHG section, which the County does not dispute was recirculated for public comment and review.

These concerns, including the FEIR's failure to analyze the Project's transportation impacts in line with statewide law, are addressed below.

II. The Project Conflicts With the Alternative Selected by the Board in its Adoption of the County's 2024 Climate Action Plan

In September 2024, the Board adopted the 2024 Climate Action Plan.⁴ In doing so, the Board also directed County Staff to "integrate the Fire Safe and Vehicle Miles Traveled (VMT) Efficient smart growth alternative . . . into existing, ongoing planning efforts within Planning & Development Services, such as the Sustainable Land Use Framework." (*Ibid.*) "Under this alternative, future land development that is consistent with the General Plan and an accompanying proposed Smart Growth Overlay would be focused in currently urbanized areas that are identified as VMT efficient outside of High and Very High Fire Hazard Zones." (CAP Update Final SEIR, p. 5-25.)

This Project is located both within in a VHFHSZ and within a high-VMT area.⁵ For these reasons, the CAP does not identify the Project site as a fire safe and VMT efficient area. (CAP Update Final SEIR, Figure 5-1.) The Fire Safe and VMT Efficient Alternative, which was selected by the County for implementation, is intended to avoid precisely the type of development that the Project proposes. The "intent of [Fire Safe and VMT Efficient Alternative] is to . . . promote a pattern of development that further reduces VMT and resultant GHG emissions . . . this alternative is anticipated to reduce VMT for new development by 6.6 percent in 2035 and 3.0 percent in 2050. *This represents a substantial VMT reduction for new growth.*" (Cap Update Final SEIR, p. 5-26., emphasis added.) The Fire Safe and VMT Efficient Alternative is expressly reliant on new development projects to be carefully sited.

Furthermore, the FEIR failed to analyze the Project's inconsistencies with the California Air Resources Board's ("CARB") 2022 Scoping Plan, despite the fact that the Sierra Club also raised this issue for the County's consideration in its October 7, 2024, comments. (**Exhibit 1**, p. 13.)

The Board has already taken steps towards reducing County-wide VMT and ensuring that future development is undertaken in a way that minimizes risk in VHFHSZs. The Harmony Grove Village South Project is plainly inconsistent with both CARB's statewide guidance and the Board's stated goals and decision on the CAP in that it proposes a sprawling residential development in high-VMT VHFHSZ. To approve this Project under these circumstances would be to undercut the Board's own directives, compromising the County's CAP objectives.

⁴ <https://www.sandiegocounty.gov/content/sdc/sustainability/news/Board-Adopts-2024-CAP.html>.

⁵ <https://www.arcgis.com/apps/webappviewer/index.html?id=bb8f938b625c40cea14c825835519a2b>; <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones>.

III. Significant Changes Necessitate Revisions to the EIR

A lead agency is required to recirculate an EIR where “significant new information” is added to the document, including changes in project or environmental setting or the inclusion of additional data or other information. (Cal. Code Regs., tit. 14, § 15088.5, subd. (a).) Similarly, once an EIR has been certified, a supplemental or subsequent EIR is required where substantial changes are proposed to the project, substantial changes occur “with respect to the circumstances under which the project is undertaken,” or when new information which could not have been known becomes available. (Pub. Res. Code § 21166.)

These statutes speak to intention behind CEQA to allow for transparency and public awareness, and more specifically, to the requirement that EIRs provide accurate and up-to-date information regarding the project, both before and after the EIR is certified. (*See also* Cal. Code Regs., tit. 14, § 15121 [“An EIR is an informational document which will inform public agency decisionmakers and the public generally of the significant environmental effect of a project”].) As stated by the California Supreme Court:

The basic purpose of an EIR is to “provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project . . . Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees.

(*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 511, internal citations omitted.)

In the six years since the Project’s illegal approval, the State has mandated new methodology for calculating transportation impacts, the Attorney General has recommended new guidance for development in fire-prone areas as fires have become increasingly severe,⁶ the Board committed

⁶ In particular, fires in the Wildland-Urban Interface (“WUI”) are projected to see disproportionate intensification in wildfires, especially in WUI areas that have already experienced wildfire disasters. (Calum X. Cunningham, et al., *Wildfires Will Intensify in the Wildland-Urban Interface Under Near-Term Warming*, NATURE (July 9, 2025), <https://www.nature.com/articles/s43247-025-02475-y>.) Harmony Grove is located in a WUI that has experienced numerous destructive fires, including the 1996 Harmony Grove Fire and the 2014 Cocos Fire, leaving Harmony Grove particularly vulnerable to increasingly severe fires.

to lowering VMT in the County, and the County’s own thresholds for screening the severity of transportation impacts—which this Project relies on—have been invalidated. Yet the FEIR insists that these concerns are of no relevance, arguing instead that somehow these changes “fall within the scope of the initial environmental review of the 2018 FEIR.” (FEIR, p. 8-93.)

Where, as here, an EIR has yet to be certified, and the FEIR fails to account for revisions to applicable law and significant changes to the circumstances surrounding the project, the EIR has failed to serve its purpose and provide accurate information for public review. Accordingly, the FEIR should not be certified.

IV. The Project is Not “Infill” and the FEIR is Required to Analyze VMT Consistent with Senate Bill 743

Effective July 1, 2020, the State of California issued a new mandate changing how projects must analyze their transportation impacts. Rather than consider a project’s impacts to other drivers, measured as “Level of Service,” agencies must analyze and mitigate a project’s impacts to “Vehicles Miles Travelled.” The State explains that this change “updates the way transportation impacts are measured in California for new development projects, making sure they are built in a way that allows Californians more options to drive less. This change will help us achieve our climate commitments, preserve our environment, improve our health and safety--particularly for our most vulnerable residents--and boost our economy by prioritizing co-located jobs, services, and housing.”⁷

Plain and simple, VMT analysis in CEQA documents has been required statewide for over four years. As the State explains: “If an environmental document has not yet been sent out for public review before July 1, 2020, the agency’s environmental document must use VMT for analyzing transportation impacts using VMT as of July 1.” (*Ibid.*; see CEQA Guidelines, § 15007(c) [“If a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved.”].)

The de-certified Harmony Grove Village South 2018 EIR declined to utilize VMT for its transportation impact analysis on the grounds that SB 743 was not yet effective, and therefore

⁷ “CEQA Transportation Impacts (SB 743)”, Office of Planning and Research, <https://opr.ca.gov/ceqa/sb-743/>. The State further explained that using LOS as the measure of transportation impacts “[l]eads to more sprawl instead of encouraging more walkable neighborhoods,” “[f]orces [agencies] to prioritize cars over people walking, biking, and taking transit, which leads to more car travel and exacerbates regional congestion,” and [c]auses development to be more spread out, ironically making it harder for residents to reach their daily destinations without driving long distances.” (*Ibid.*)

VMT analysis was not yet required.⁸ Yet, the Board Letter prepared for the upcoming hearing asserts, “The adoption of VMT guidelines was already known when the 2018 EIR was prepared, and the public had an opportunity then to comment on any potential adverse environmental effect that the Project would have, regarding VMT. The issue of VMT was resolved by the courts and res judicata applies.”⁹ Many commenters raised the issue of VMT in response to the 2018 FEIR, but the County declined to utilize VMT methodology for impact analysis, because SB 743 was still in the draft stage and CEQA still only required LOS analysis. (*See, e.g.*, 2018 FEIR, p. RTC-07-4.) The County cannot argue that issues related to VMT analysis should have been raised and are now precluded, when the issue *was* raised and the County insisted that VMT analysis was premature pending the adoption of SB 743.

The applicant chose to re-apply for the Project and posted a new EIR for public review in 2024. This time, the County recognized it must consider VMT, as the 2024 EIR featured a “Harmony Grove Village South Infill Analysis Memorandum” (“Infill Memorandum”), attached as Appendix 1 to the GHG section. Notably, the GHG section of the EIR was the portion that even the County admitted was recirculated, meaning there is no dispute as to whether the new information set forth in the Infill Memorandum is subject to public review and comment, and is not precluded from legal challenge. Furthermore, the Court of Appeal expressly stated that the EIR was intertwined with the deficient mitigation measure, which might require revisions to the transportation section. (*Sierra Club v. County of San Diego* (Dec. 21, 2021) D077548, D077972, emphasis added.) Therefore, claims that the FEIR was not required to analyze VMT lack merit.

A. The County’s Infill Thresholds Have Been Overturned

First and foremost, the “infill” thresholds created by the County’s Transportation Study Guidelines (“TSG”) were overturned in *Cleveland National Forest Foundation v. County of San Diego* (2025) 110 Cal.App.5th 948. The Court concluded that substantial evidence did not support the use of the thresholds:

None of the “evidence” relied on by the County to support its assumptions concerning its infill threshold comes from independent outside sources or reflects anything other than unsubstantiated opinions about infill development generally . . . The County made no attempt to establish facts showing how often development in its designated infill and village areas will not cause a significant transportation-related impact as measured by VMT . . . The County has chosen to identify specific

⁸ May 2018 Draft Final Environmental Impact Report, Appendix J, Attachment D, p. 3-4, emphasis added.

⁹ Letter to the Board of Supervisors, Land Use Agenda Item No. 04, *Harmony Grove Village South General Plan Amendment, Specific Plan, Zone Reclassification, Tentative Map, Major Use Permit, Site Plan And Environmental Impact Report And Associated Documents* (Oct. 1, 2025).

areas as infill where development can occur without performing a VMT analysis, but it has done so without providing any evidence that developing infill, as it has chosen to define it, would generally result in an insignificant transportation effect at the local county level.

(*Id.* at 964, internal citations omitted, emphasis added.)

The Project EIR relied on these very same “infill” thresholds that have since been overturned. For this reason alone, the Board must vote against approval of the Project and certification of the EIR.

B. *Even if They Were Not Overturned, the TSG’s Infill Thresholds Do Not Support a Finding that the Project is “Infill”*

In relying on the now-overturned thresholds, the Project’s Infill Memorandum summarily concluded that the Project qualified as infill and “[t]herefore . . . the Project would not be required to perform a VMT analysis.” (Infill Memo, p. 8.) This conclusion, and the entire Infill Memorandum, is erroneous and misleading, as detailed exhaustively in the Sierra Club’s comments on the DEIR. (See **Exhibit 1**, pp. 7-11.) The Project site does not qualify as an Infill Area under any standard set forth in the TSG.

The County now makes the argument that maps identified by Sierra Club are outdated because they utilize SANDAG’s 2016 housing data, and as a result, the TSG’s location-based maps do not account for recent growth in the area, including the nearby Harmony Grove Village. (FEIR, p. RTC-ReO1-8.) Yet, the Infill Memorandum *did* erroneously consider the Project in conjunction with the Harmony Grove Village Specific Plan, where new development has occurred in recent years. (Infill Memo, p. 6.) The County cannot assert that the TSG’s maps are outdated because of their omission of the new Harmony Grove Village development, while simultaneously asserting that the Project qualifies as infill merely because it is located *near* that new development in a specific plan area that does *not* include the Project site. Moreover, 2023 data released by the County after the construction of the new residential units in Harmony Grove Village *still* fails to identify either Harmony Grove Village or the Harmony Grove Village South Project site as low-VMT.¹⁰

Not only were the TSG’s infill thresholds overturned for lack of substantial evidence, but the County’s application of these thresholds was also in error.

¹⁰ <https://www.sandiegocounty.gov/content/dam/sdc/sustainability/docs/CAP-Update-SGA-Map-VMT-Efficient-Regional-Insets.pdf>, p. 4.

Still, the FEIR maintains that “analysis of the Project under the quantitative criteria of the TSG indicated the Project site qualified as an infill area under the County’s ‘infill’ requirements, as outlined in Section 3.3.1 of the 2022 TSG.” (FEIR, RTC-ReO1-5.) The portion of the TSG that the County cites to here, the infill threshold contained in section 3.3.1 of the TSG, is the portion of the TSG that was overturned in March, three months before the FEIR was published for review. As established in *Cleveland National Forest Foundation*, these thresholds cannot be relied upon because substantial evidence does not support the assertion that they would reduce VMT. This Project is a high-VMT sprawl development which will only contribute to increasing VMT within the County, clearly inconsistent with SB 743 and the *Cleveland National Forest Foundation* court’s guidance. The FEIR fails to analyze, disclose, and mitigate this significant impact in violation of CEQA.

V. The County Was Required to Analyze Vehicle Miles Traveled Because the FEIR Did Not Tier From a Certified Environmental Document

In defense of its failure to conduct a VMT analysis consistent with the County’s adoption of the 2022 Transportation Study Guidelines (“TSG”), the FEIR relies on an inapplicable Court of Appeal ruling, *Olen Properties Corp v. City of Newport Beach* (2023) 93 Cal.App.5th 270 (hereafter “*Olen*”). (FEIR, pp. 8-128 to 8-129.)

Olen is plainly inapplicable in this matter. In *Olen*, the City of Newport Beach certified an EIR in 2006 as part of its General Plan Update, and later published a 2020 Addendum to the original, certified EIR. Unlike in *Olen*, where an addendum was later prepared in relation to a *certified EIR*, the 2024 Harmony Grove Village South EIR has never been certified and does not tier from a previously certified environmental document. *Olen* simply does not provide support for the County’s assertion that a yet-to-be certified EIR does not need to comply with applicable law because “VMT information was known as far back as 2006.” (See FEIR, p. 8-129.) Furthermore, the now-decertified 2018 Project EIR expressly *declined* to analyze VMT, on the grounds that SB 743 was not yet effective. SB 743 is now effective and applicable.

The Sierra Club cautions the County against relying on this misinterpretation of applicable law, as it may expose the County to another adverse appellate ruling. The County’s position on this issue would render the 2022 TSG functionally useless; if any future project could claim that VMT does not need to be analyzed because the public was aware of the issue in 2006, the entire TSG would be unenforceable.

VI. The Project Faces Severe Fire Risk, But Fails to Conform with Statewide Guidance Intended to Minimize That Risk

The Project site is located in Very High Fire Hazard Severity Zone, the highest category of risk that the State Fire Marshal assigns based on a number of factors, including fuel loading, slope, and typical winds. (Gov. Code § 51178.) Therefore, adequate fire safety measures are critical.

The Sierra Club previously raised the Project's inconsistencies with the Attorney General's Office's "Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act." (FEIR, p. RTC-ReO1-19.) The FEIR responded, "[w]hile the AG Guidelines suggest that development in fire prone areas increases the likelihood of more destructive fires, etc., the Guidelines do not contemplate master planned communities, such as the Project, that are designed specifically through code and other requirements to represent acceptable risk by mitigating the wildfire hazards." (*Ibid.*)

There is no support within the Attorney General's Best Practices for this assertion. The Best Practices document does not distinguish between master planned communities or smaller communities, in fact, it is expressly aimed at "proposed development projects, such as residential, recreational, or commercial developments."¹¹ Any perceived difference between master planned communities and smaller residential developments is immaterial when the Best Practices are broadly aimed at new development, including commercial.

The Best Practices continue, "siting residential structures in rugged terrain or on the top of steep hills may increase the wildfire risk . . . *Some EIRs have concluded that the conversion of some wildland vegetation into paved development reduces or does not increase wildfire risk. This conclusion is contrary to existing evidence and the well-accepted understanding that the fundamental driver of increased wildfire risk is the introduction of people into a flammable landscape.*" (*Ibid.*) Therefore, to the extent that the FEIR claims the Project is fire safe because it proposes a master planned community, the Attorney General's Office has clearly declared that the opposite is true. Consistent with the Attorney General's guidance, the introduction of people into flammable terrain poses an inherent risk, and the fact that this Project proposes to add *many* people into such terrain does not somehow negate that risk.

This increased risk is due to the increased contact of wildfires with urban structures and the increased likelihood of human-caused ignitions, which are already responsible for over 84% of wildfires.¹²

¹¹ <https://oag.ca.gov/system/files/attachments/press-docs/2022.10.10%20-%20Wildfire%20Guidance.pdf>.

¹² Sara Frueh, *The Growing Challenge of Urban Wildfires*, NATIONAL ACADEMIES (Mar. 10, 2025), <https://www.nationalacademies.org/news/2025/03/the-growing-challenge-of-urban->

The Best Practices are specifically “designed to help lead agencies comply” with CEQA “when considering whether to approve projects in wildfire-prone areas.” (*Ibid.*) There is no caveat that this guidance does not apply to master planned communities; in fact, the sheer number of new residents alone makes compliance with this guidance all the more critical.

VII. Conclusion

The approval of the Project is entirely discretionary and up to the Board. The Project fails to provide a public benefit that would support a General Plan Amendment. The Project is plainly inconsistent with the Attorney General Office’s Best Practices set forth for wildfire safety, fails to comply with statewide law regarding VMT, relies on now-invalidated VMT thresholds, and clearly contradicts the alternative selected by the Board in adopting the County’s Climate Action Plan. Sierra Club urges the Board to deny the requested General Plan Amendment and EIR.

Thank you for your consideration of these comments.

Sincerely,



Isabella Coye
Josh Chatten-Brown
Kathryn Pettit

Cc:

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wildfires; National Academies of Sciences, Engineering, and Medicine, *The Chemistry of Fires at the Wildland-Urban Interface* (Sept. 15, 2022),
<https://www.ncbi.nlm.nih.gov/books/NBK588638/#:~:text=Increased%20development%20at%20the%20WUI,et%20al.%2C%202021>.

EXHIBIT 1



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October 7, 2024

Via email

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Re: Harmony Grove Village South 2024 Final Environmental Impact Report

Dear Ms. Lorenzana:

On behalf of the Sierra Club, we provide the following comments on the proposed Harmony Grove Village South development (“Project”) and Environmental Impact Report (“EIR”).

I. The Court Mandated Rescission of the Entire Environmental Impact Report

At the outset, we wish to correct inaccuracies in the County of San Diego’s (“County”) Notice of Public Review that it sent out in relation to the Project on August 22, 2024.

The Notice states it is “re-circulating” only the greenhouse gas (“GHG”) related portions of the EIR on the grounds that “the California Court of Appeal (Court) found that the 2018 FEIR was adequate in all respects except for one: the GHG mitigation measures relative to credit purchase.” The Notice concludes that “[a]ll other issues have been fully resolved by litigation and, as such, are not subject to further examination and the conclusion as to CEQA significance (significant and mitigable) to the 2018 FEIR remain the same.”

In directing the County to de-certify the *entire* EIR and rescind all project approvals, the Court of Appeal explained:

We do, however, agree with Sierra Club’s assertion that severance is not appropriate here because the GHG emission mitigation measure is intertwined with the EIR. As Sierra Club states, ‘upon reexamination of mitigation measure M-GHG-1, the County may conclude additional alternatives are feasible or must be analyzed. Changes to project requirements driven by changes to [the measure] might require revision to various impacts areas, including, for example, traffic and circulation and air quality impacts.’

(*Sierra Club v. County of San Diego* (Dec. 21, 2021, Nos. D077548, D077972) ___ Cal.App.5th ___ [unpublished].)

The prior EIR was decertified in its entirety. The County must consider anew the *entire* EIR, not just one re-circulated section, before any approval of the Project.

The public must have the opportunity to comment on the remaining sections of the newly published draft EIR, including the opportunity to comment on additional feasible alternatives, as described by the Court of Appeal. Additionally, to the extent that changed circumstances impact the draft EIR's conclusions and obligate new analysis and mitigation under the California Environmental Quality Act ("CEQA"), the public must also have the opportunity to comment.

II. The Project Fails to Adequately Disclose, Analyze, and Mitigate its Vehicle Miles Travelled Impacts

As demonstrated in the above section, the EIR and the Project's approvals were *all* rescinded for violations of CEQA. The Applicant has decided to re-apply for the Project and the County must now consider the Project anew.

Effective July 1, 2020, the State of California ("State") issued a new mandate, changing how projects must analyze their transportation impacts. Rather than consider a project's impacts to other drivers, measured as "Level of Service," agencies must analyze and mitigate a project's impacts to "Vehicles Miles Travelled." The State explains the rationale for this change:

SB 743 (Steinberg, 2013) updates the way transportation impacts are measured in California for new development projects, making sure they are built in a way that allows Californians more options to drive less. This change will help us achieve our climate commitments, preserve our environment, improve our health and safety--particularly for our most vulnerable residents--and boost our economy by prioritizing co-located jobs, services, and housing. It will also reduce the time we need to spend in our cars to get places and provide more choices for how we travel, which will help to promote business, provide access to opportunity, and improve the quality of life across our state.

("CEQA Transportation Impacts (SB 743)", Office of Planning and Research.)¹

The State further explains that using LOS as the measure of transportation impacts "[l]eads to more sprawl instead of encouraging more walkable neighborhoods," "[f]orces [agencies] to prioritize cars over people walking, biking, and taking transit, which leads to more car travel and exacerbates regional congestion," and [c]auses development to be more spread out, ironically

¹ <https://opr.ca.gov/ceqa/sb-743/>

making it harder for residents to reach their daily destinations without driving long distances.” (*Ibid.*)

SB 743 was intended to “[s]treamline infill, preserving agricultural lands and open space for growing food, for recreation, and for maintaining ecological biodiversity,” and “[c]onserve lands surrounding cities that make our communities safer and more livable, like important wildfire buffers, wetlands to prevent flooding, and green space to offset the heat and pollution generated by urban areas.” (*Ibid.*)

A. The EIR Is Required to Utilize VMT for Analyzing Transportation Impacts

Starting on July 1, 2020, VMT analysis in CEQA documents is required statewide. According to the State: “If an environmental document has not yet been sent out for public review before July 1, 2020, the agency’s environmental document must use VMT for analyzing transportation impacts using VMT as of July 1.” (*Ibid.*; see CEQA Guidelines, § 15007(c) [“If a document meets the content requirements in effect when the document is sent out for public review, the document shall not need to be revised to conform to any new content requirements in Guideline amendments taking effect before the document is finally approved.”].)

The de-certified Harmony Grove Village South 2018 EIR (“2018 EIR”) declined to utilize VMT for its transportation impact analysis. When considering the Project’s consistency with the California Air Resources Board (“CARB”) recommendation to “[c]omply with lead agency’s standards for mitigating transportation Impacts under SB 743,” the 2018 EIR stated:

Not Applicable. The Governor’s Office of Planning and Research (OPR) has not yet adopted amendments to the State CEQA Guidelines pursuant to Senate Bill (SB) 743. Additionally, the County of San Diego has not adopted guidelines or guidance regarding the implementation of SB 743 at the jurisdictional level, and its obligation to do so will be triggered upon completion of OPR’s amendment process to the State CEQA Guidelines.

(May 2018 Draft Final Environmental Impact Report, Appendix J, Attachment D, p. 3-4, emphasis added.)

Perhaps in an attempt to feign compliance with the State’s new requirements, the County published a “Harmony Grove Village South Infill Analysis Memorandum,” as Appendix 1 to the revised GHG section of the Project’s “re-circulated” 2024 EIR. (“Infill Memo”).

Not only is the Infill Memo inaccurate, as described in the following Section II(C), it does not fulfill Senate Bill 743’s requirements. The 2018 was de-certified in its entirety, and Senate Bill 743’s requirements became effective July 1, 2020. Thus, the County is required to analyze the

Project's *transportation* impacts in accordance with Cal. Code Regs. tit. 14 ("CEQA Guidelines") Section 15064.3, which identifies VMT – "the amount and distance of automobile travel attributable to a project" as the appropriate measure for transportation impacts.

The Infill Memo, which is attached as an appendix to a "re-circulated" GHG section, fails to comply with SB 743's requirement that the EIR base its transportation impact analysis – including its consideration of Project alternatives and mitigation measures – on the level of VMT generated by the Project. And, as discussed in the following section, the amount of VMT is substantial.

B. The Project Would Result in Significant Transportation Impacts

Harmony Grove Village South is a sprawl project that subverts the State's goals. It is located in an area that has since been designated by the San Diego Association of Governments ("SANDAG") as having high levels of "Vehicle Miles Travelled." (**Exhibit A** [excerpts of SANDAG's "San Diego Region SB 743 Maps"].²) SANDAG is San Diego County's metropolitan planning organization ("MPO").³

The Project is the antithesis of "infill" development as defined by the State. As noted earlier, the Project is located in an area identified as producing the highest category of VMT. (**Exhibit A**.) The Project is not located near any transit. (**Exhibit B**, Excerpts from County's Transportation Study Guidelines Identifying Existing and Planned Major Transit.) The Project would convert biologically sensitive habitat lands designated as "rural" under the County's General Plan. The Attorney General's Office filed an Amicus Brief in *Golden Door* (which involved litigation challenging the County's Climate Action Plan's use of faulty carbon offsets) that specifically identified concerns over *this* Project's excessive production of VMT.

² SANDAG provides the following information about its SB 743 VMT Maps: "The California Senate Bill 743 (SB 743) (Steinberg, 2013) VMT maps provide an estimate of personal vehicle travel by residents and employees within the San Diego region. The California Office of Planning and Research released a Technical Advisory on Evaluating Transportation Impacts in CEQA (<https://opr.ca.gov/ceqa/sb-743/>) and the maps provided by SANDAG are an interpretation of the guidelines provided as a resource to the jurisdictions in our region to use as they see fit. The estimated data in these maps are an analysis of travel using SANDAG's ABM. The currently approved ABM version (14.2.2) used for the 2021 Regional Plan is ABM2+ with the Series 14 Growth Forecast version 38. The historic version of the ABM (14.1.1) was used for the 2019 Regional Transportation Plan with the Series 14 Growth Forecast version 17." Available at: <https://www.sandag.org/-/media/SANDAG/Documents/PDF/data-and-research/geographic-information-systems/california-senate-bill-743-vehicle-miles-traveled-documentation-2022-02-11.pdf>.

³ "About SANDAG." <https://www.sandag.org/about>

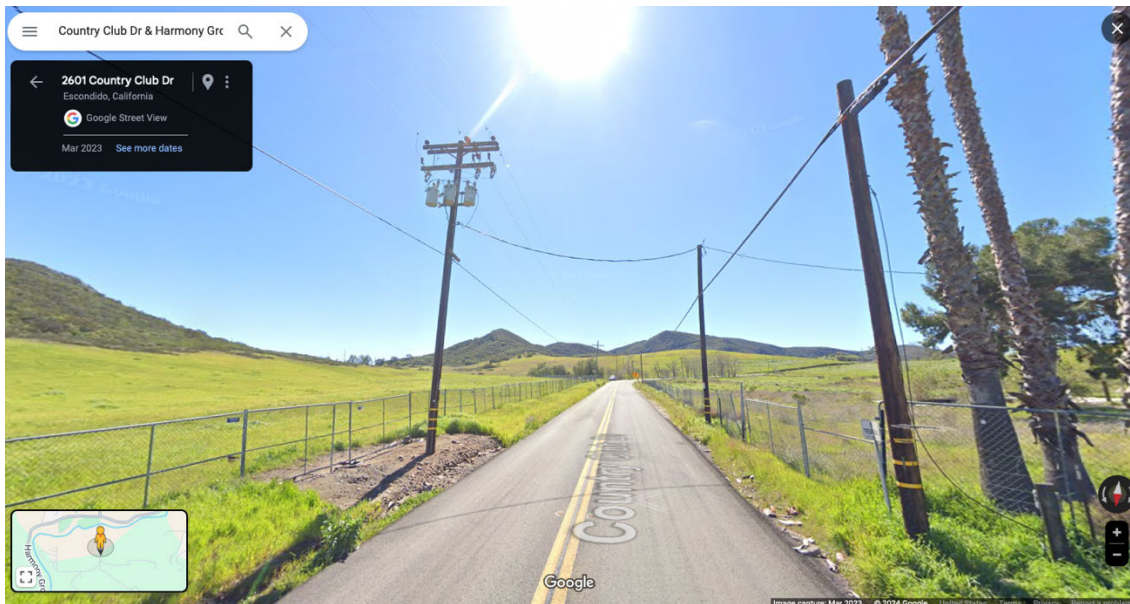
As the Court of Appeal explained:

In a related argument, Plaintiffs assert that “the SEIR does not fully address how facilitating **sprawl development** and increased VMTs by authorizing out-of-County offsets would be consistent with the [Regional Plan].” Appearing as amicus curiae, **the Attorney General amplifies these arguments**, noting that one of the GPAs, Harmony Grove Village South, will increase VMT by 11.5 million miles annually.

(*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 539, emphasis added.)

The County’s own TSG identifies the site as having the lowest possible “[a]ccess to Retail and Restaurants within 1-mile, by TAZ.” (TSG, Appendix D, Figure 13: Retail and Restaurant Accessibility in San Diego County.)

Google Maps Satellite Imagery of the Project site and its surroundings further underscore the rural nature of the site and immediately surrounding area:





Substantial evidence indicates that the Project will result in significant impacts to VMT. The Project would increase units in an area that is completely car-centric, far from any walkable areas or transit, in land designated by the County's General Plan as "rural" and "rural residential." Further, the Project clearly does not qualify as an "Infill Area," as described further below.

C. The Project Does Not Qualify for the County’s Transportation Study Guidelines “Infill” Screening Threshold

The Infill Memo admits that the Project was not identified as an “infill” area in the County’s Screening Maps under the County’s Transportation Study Guidelines (“TSG”). (Infill Memo, p. 4.) However, the Infill Memo improperly claims that the Project still qualifies for the TSG Infill Area screening threshold.

In particular, the Infill Memo claims that “as noted in Table 1 of the TSG, a project is considered infill if it is identified in the County’s location based maps OR meets the Infill criteria outlined in the Infill Areas in Unincorporated San Diego County Memo...which is included as Appendix D of the TSG. Section 3.3.1 of the TSG also outlines the criteria an area must meet to be considered infill.” (*Ibid.*)

TABLE 1 – CEQA VMT SCREENING

CEQA VMT Screening Criteria	
1. Projects Located in VMT Efficient Areas Based on Regional Average	
<ul style="list-style-type: none">• Region being defined by OPR as the MPO/RTPA geographical Boundary• Use location-based screening maps (consistent with project land uses)	
2. Projects Located in Infill Village Areas	
<ul style="list-style-type: none">• Use location-based screening maps• VMT Screening Criteria for Infill Areas, (see Appendix D)	
3. Small Residential and Employment Projects	
<ul style="list-style-type: none">• Projects that generate less than 110 average daily trips (trips are based on the number of vehicle trips after any alternative modes/location-based adjustments applied)	

Excerpt of Table 1 of the TSG

Section 3.3.1 of the TSG provided further details to Table 1 and the “Infill Village Area” screening criteria (Item # 2 of Table 1). The TSG explain: “Based on definitions and information provided by both the US Census and Department of Transportation, the following criteria was prepared to define and map infill in the unincorporated area... These definitions, metrics and corresponding maps **are further explained in Appendix D.**” (TSG, p. 20.)

Thus, Appendix D (the “Infill Screening Technical Memorandum – Infill Areas within Transit Opportunity Areas”) has already identified areas pursuant to the County’s screening criteria. And it has unequivocally identified the Project area as **not qualifying for the VMT screening criteria.**

Appendix D explained, “The above [infill] values were used to categorize Traffic Analysis Zones (TAZs) in the Unincorporated County. Out of 1,104 TAZs that lie within the Unincorporated areas of the County, 138 meet the above criteria for household density, intersection density, and jobs accessibility.” (TSG, App’x D, p. 9.)

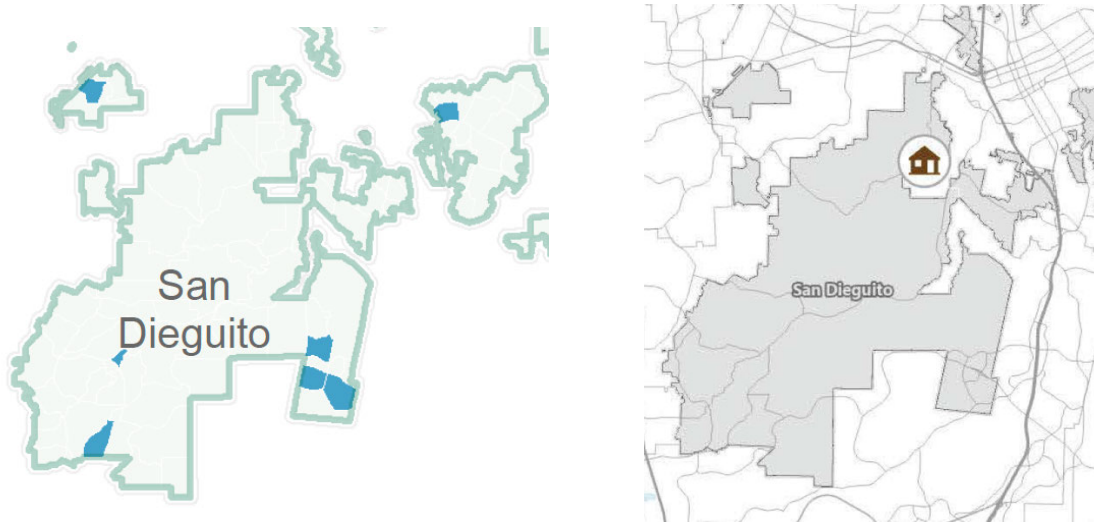
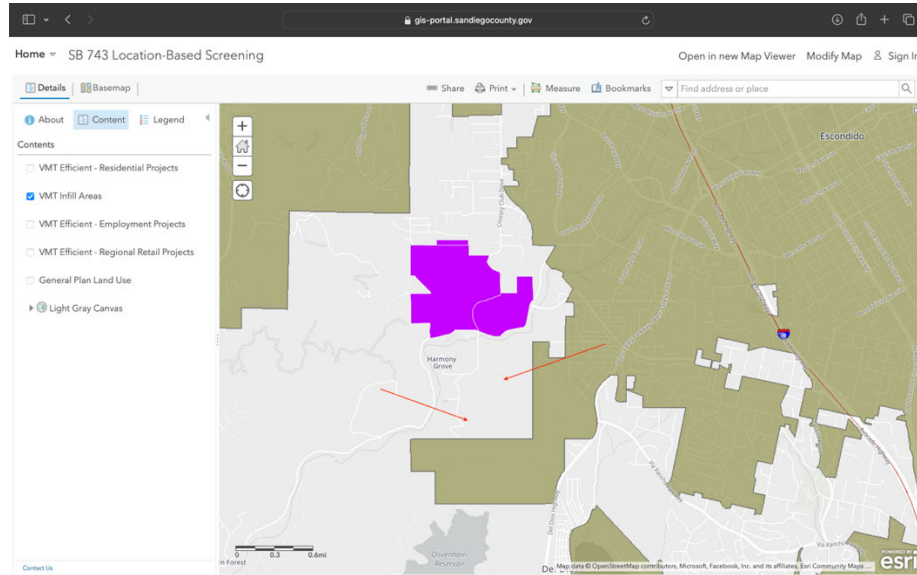


Figure 4 of the TSG: Areas of the Unincorporated County Which Meet Infill Definition [in blue] (left), Excerpt from Infill Memo of Project Location [house icon] (right)

In the above Figure 4, the TSG identify the blue shading as “Unincorporated County TAZs which meet infill definition,” and the unshaded areas as “Unincorporated County TAZs **which do not meet infill definition.**” (TSG, App’x D, p. Figure 4 [emphasis added].)

The TSG also identified “Urbanized Areas” under Senate Bill 9 criteria, and demonstrated that the Project area was also not an “Urbanized Area.” (TSG G, App’x D, p. Figure 6.) The TSG also mapped potential areas to “expand” the designated Infill Areas, in Figures 14 and 15, and *still* did not identify the Project as qualifying. Thus, not a single map identified the Project site as qualifying for the TSG screening criteria.

Finally, the Project also fails to qualify as Infill under the County’s online “Location-Based Screening Maps.”



(County of San Diego SB 743 Location-Based Screening Map showing “VMT Infill Areas” in Purple, with red arrows added over the Project site)⁴

The County’s TSG, and the propriety of their inclusion of qualitative “Infill Areas” rather than quantitative VMT-based thresholds is currently being considered by the Court of Appeal. (See *Cleveland National Forest Foundation et. al. v. County of San Diego*, Case No. D083555.)

In defending its Infill Area thresholds, the County argued the following in its Respondent’s Brief, filed on July 23, 2024:

According to the TSG, all land development projects are required to prepare a detailed transportation VMT analysis, except those that meet at least one of the stated criteria, which include the following as relevant to Appellants’ claims:

- Projects located in a VMT Efficient area (where VMT is at least 15% below the regional average);
- Projects located in an Infill Village area; and
- Small residential and employment projects (less than 110 average daily trips [ADT])

(AR 23179.) ...The Infill Threshold was developed based on the Infill Screening Technical Memorandum (“Infill Memo”). (AA 23223–49 [TSG Appendix D].) The Infill Memo evaluated multiple land use and transportation network

⁴ <https://gis-portal.sandiegocounty.gov/arcgis/home/webmap/viewer.html?webmap=775c6c08842c435fa90d2b8ad77eed76>

variables to create a quantitative definition for “infill development” in the County, including household density, intersection density, and jobs accessibility. (AR 23225; AR 23229–31.)

The areas that meet the infill definition generally align with intuitive concepts of urban areas; these locations are close to incorporated cities and within the sphere of development for urbanized San Diego. (AR 23232.) The following is a screening map, included in the TSG at AR 23219, **which shows the defined Infill Areas**, along with the VMT-Efficient Areas...”

(**Exhibit C**, County Respondent’s Brief Excerpts.)

The County’s map that it provided to the Court of Appeal identified the Project site as **not** qualifying as an Infill Village Area. (*Ibid.*) The County further told the Court that “a project only complies with the TSG’s infill threshold if it meets the criteria for infill development and is within a [Transit Opportunity Area].” As demonstrated by the County’s map in its brief, the Project is not within a Transit Opportunity Area. (*Ibid.*)

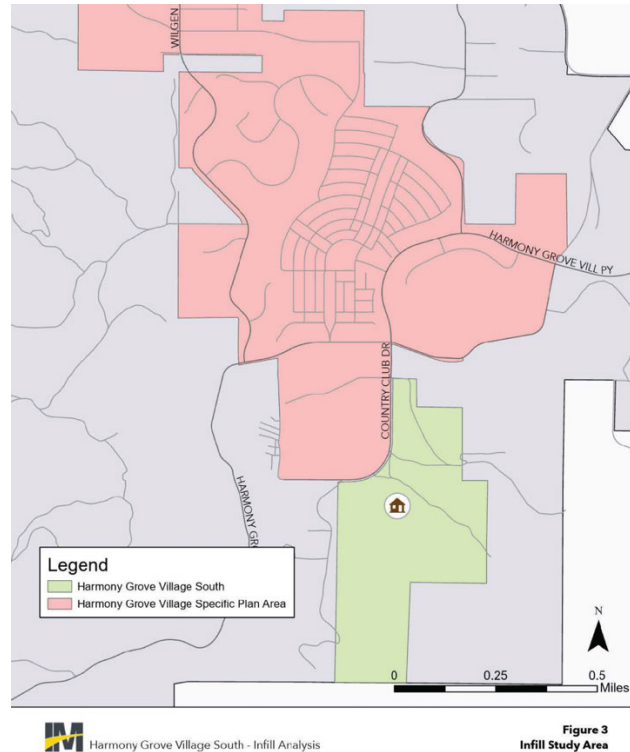
Finally, the County defended its decision to expand its Infill Areas to include the entire boundaries of General Plan-designated Villages, stating its experts found “the identified Village Areas as ideal locations to increase land use densities,” ... “[a]s such, a project located ‘in a village context within the county can be considered an infill location because those locations represent the areas within the county that have the most compact land use pattern (**as compared to rural areas**).” (*Ibid.*, emphasis added.)

The Project site is designated by the General Plan as rural and rural residential. It is NOT a designated Village. Nor it is a designated “Transit Opportunity Area” or “Infill Area.”

To circumvent these facts, Project Infill Memo improperly includes the Harmony Grove Project Specific Plan area—which the County has designated as “infill”—in evaluating whether the Proposed Project area meets the County’s “infill criteria.” (Infill Memo, p. 6.) The Infill Memo states it provides “a refined analysis, specific to the project site, to determine if the Proposed Project would qualify as infill, *when assumed in conjunction with Harmony Grove Village Specific Plan.*” (*Ibid.*)

Therefore, the Infill Memo does not provide an analysis of the Project site. The Project is *not* in the Harmony Grove Village Specific Plan. (Harmony Grove Specific Plan, Figure 2.)⁵

⁵ Available at: <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/specificplans/Harmony-Grove-Village-Specific-Plan.pdf>



The Infill Memo selectively and improperly expanded its study area. Under the Infill Memo’s approach, the surrounding area of any identified “Infill Area” would be swallowed up as “infill,” completely undermining the designation of specific areas for infill in the first place.

The Project site clearly does not qualify for the infill screening criteria—the Infill Memo cannot manipulate the baseline study area to avoid this reality. As explained above, the County’s consultants have already applied the “Infill Criteria” to the County in Appendix D of the TSG, and identified that the project site does not qualify for infill screening.

Finally, as the County underscored in the TSG appellate litigation, “even as to transportation, the thresholds cannot be rotely applied to avoid finding a potentially significant impact in the fact of substantial evidence to the contrary. *John R. Lawson Rock & Oil, Inc. v. State Air Res. Bd.*, 20 Cal. App. 5th 77, 108 (2018).” As detailed in Section II(B), there is substantial evidence that the Project will result in significant transportation impacts due to the substantial amount of VMT it would produce.

The Project must adequately analyze and mitigate impacts to VMT, especially given the State’s new mandates and policies to reduce VMT and car-centric development.

III. Impacts to GHG Emissions Must Be Adequately Addressed

Sierra Club applauds the removal of the unlawful carbon offset mechanism that the Project previously relied on in the 2018 Environmental Impact Report (“EIR”). However, the EIR’s revised methodology and mitigation still raises concern about the sufficiency of its analysis of GHG impacts. There are various flaws with the calculations and methodologies employed in the latest revisions to the EIR’s GHG section.

A. Unexplained Reductions in GHG Emissions Projections

The County notes that the EIR has been revised to include “updated modeling,” a “revised mitigation measure,” as well as a “discussion of infill screening analysis.” (Reader’s Guide to Additional Information for Harmony Grove Village South (“Reader’s Guide”), p. 3.) There have been unexplained changes to the GHG emission projections in the EIR.

For example, calculations for the assumed mobile source emissions for the Project have been inexplicably reduced. The 2018 FEIR assumed mobile source emissions from the Project in the amount of 4,072 MT CO₂e. (2018 FEIR, p. 2.7-28.) The 2024 analysis now assumes only 2,846.07 MT CO₂e. (2024 GHG Analysis, p. 49.) The trip length assumption has not been changed between 2018 and 2024, as discussed in further detail below. (2018 GHG Analysis, App’x C.) Concerningly, the projected annual VMT has also been significantly reduced.

The EIR should explain what accounted for this reduction and whether there were off-model adjustments made.

The 2018 GHG Analysis presumed 11,455,912 annual VMT, whereas the 2024 GHG Analysis presumes 10,212,371 annual VMT. (2018 GHG Analysis, Attachment C, p. 34; 2024 GHG Analysis, Attachment A, p. 53.) Trip summary information provided reveals that the 2024 analysis assumes 1,277,947 *fewer* annual VMT from condos and townhomes and only 34,406 *more* annual VMT from single family homes. (*Ibid.*) There is no explanation for the change in these figures, despite the enormity of the reduction of estimated annual VMT from condos and townhomes.

The 2024 GHG Analysis points to a change in the version of CalEEMod that was used to explain the reduction in projected emissions, as Version 2013.2.2 was used in 2018 and Version 2020.4.0 was used in 2024. (2024 GHG Analysis, p. v.) However, this change would alter the emissions factors, not the VMT calculations underlying the projected emissions, meaning there is no explanation for the reduction in VMT itself.

The California Air Resources Control Officers Association (“CAPCOA”) does allow for GHG emissions reductions of up to 11.9% to be calculated where a Project proponent installs electric

vehicle (“EV”) chargers above the required amount. (See **Exhibit D**.) The Project would provide for the installation of an EV charger in each residential unit. (2024 Updated FEIR, p. 2.7-21.) **Exhibit D** contains the formula to be used to calculate the emissions reductions associated with this mitigation measure. CAPCOA only authorizes emissions reductions of up to 11.9% using this formula, though the overall mobile source emissions projected in association with the Project have been reduced by more than 30%. The FEIR must explain the discrepancy, and must conform its estimated reductions to the formula provided by CAPCOA if the basis for these reductions comes primarily from the installation of EV chargers.

These inconsistencies are particularly concerning given the EIR’s following claim:

Substantive modifications to the earlier study are therefore extremely focused. Topical elements of the prior study that were previously approved by the BOS and determined by the Court to be adequate for CEQA include . . . Traffic generation information (average daily trips, vehicle miles traveled, and associated roadway effects).

(2024 GHG Analysis, p. v–vi.)

The Project’s proponent cannot assert that the traffic generation information is adequate and “previously approved” and therefore the public is precluded from commenting on the analysis if it has entirely changed the underlying information, such as annual VMT from the Project.

B. VMT Trip Length Calculations

Both the 2018 and 2024 GHG Analyses rely on the trip length analysis conducted for the Project in 2016, which provides that the average Project trip length would be 7.88 miles. SANDAG’s standard trip length at the time was 7.9 miles.

As discussed earlier, SANDAG has since made available VMT-modeling maps that reveal the inaccessibility of the Project location and thus the increased levels of VMT for its residents. This is of particular concern given the state-wide focus on significantly reducing per capita VMT.

The California Air Resources Board’s (“CARB”) 2022 Scoping Plan has established the State’s following strategy to meet its GHG reduction targets: “Achieve a per capita VMT reduction of at least 25 percent below 2019 levels by 2030 and 30 percent below 2019 levels by 2045.” (CARB 2022 Scoping Plan, p. 194.)

Yet, in 2035, the City/Community Planning Area of San Dieguito's (which the Project is located in) percent of regional mean VMT is projected to be 138.8%.⁶ (Exhibit A.) Further, SANDAG projects that in 2035, the traffic analysis zones immediately surrounding the Project will account for between 108% and 116% of regional mean VMT, with other nearby zones projected to account for **up to 154.2%** of the regional mean. (Exhibit A.)⁷

None of these projections come close to achieving the goals set forth in CARB's scoping plan or other applicable regulations. In fact, the Project will conflict with the State's VMT reduction goals. This is significant new information that was not addressed under the prior 2018 EIR and litigation, which must be analyzed in a proper VMT analysis.

The relative remoteness of the Project site will result in higher than average trip lengths for residents, which is not reflected in the calculations used in the 2018 and 2024 FEIR. The 2024 FEIR relies on an outdated trip length analysis, which calculated a lower trip length than SANDAG's suggested average, despite clear evidence that the Project site is *not* located in a VMT efficient area. As stated above, depending on the geographical boundary analyzed, the Project could be expected to account for up to 138.8% of regional mean VMT. The FEIR must be based on an updated, realistic trip length analysis that is consistent with the latest SANDAG modeling.

a. Solar Panel Installation as Off-Site Mitigation

Sierra Club appreciates that the installation of solar panels off-site is a significant step in the right direction compared to the Project's original plan to rely on out-of-county, market-based carbon offsets. The EIR proposes a new mitigation measure, M-GHG-1, that must be fully implemented prior to the issuance of the first grading permit. This too is a positive feature of the new mitigation measure.

However, the installation of off-site solar panels is intended to offset 1,037.72 MT CO_{2e} in Project emissions projected after all feasible PDFs are included. (2024 Updated FEIR, p. 2.7-34.) This results in a demand for an additional 1,720 kW of solar energy, which will require approximately 142,760 square feet of roof area. (*Id.*) This would be over three acres of roof space. The updated FEIR acknowledges that this may require more than one building to serve as a site for the solar panels; however, the FEIR falls short of selecting these buildings now.

It is feasible to identify and select these buildings now, and the FEIR should do so. This would allow interested parties to review the selected sites to ensure that the buildings are not already required to install these panels, and therefore ensure that the solar panels are "additional," which

⁶ SANDAG, San Diego Region SB 743 VMT Maps, <https://sandag.maps.arcgis.com/apps/webappviewer/index.html?id=bb8f938b625c40cea14c825835519a2b>.

⁷ *Id.*

is a legal requirement of offsets that is referenced in M-GHG-1. The FEIR can—and should—identify the buildings now, especially considering the scale of the roof area required.

IV. Impacts to Biological Resources Must Be Adequately Addressed

The Updated FEIR must address changed circumstances that have arisen since 2018. This includes impacts to threatened and endangered species, particularly those that were only recently listed.

A. Hermes Copper Butterfly

The Hermes Copper Butterfly (*lycaena hermes*) was federally listed as threatened on January 20, 2022.⁸ At the time the Biological Technical Report was completed for this Project, the species was not listed at the federal or state level, but considered a “County Group 1 sensitive species.” (Biological Technical Report, p. 21.) Accordingly, surveys were done to determine whether any Hermes Copper Butterflies inhabited the site.

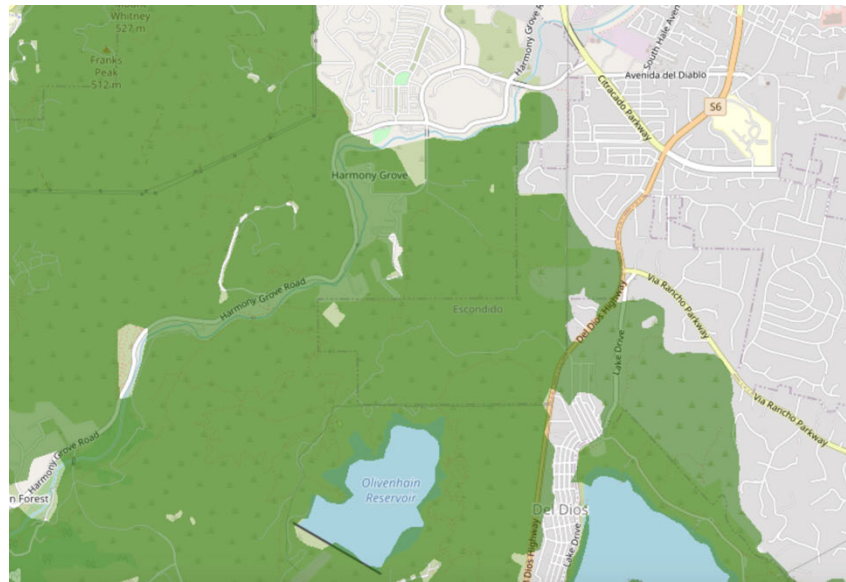
At the time of the surveys, biologists discovered spiny redberry bushes, the Hermes Copper’s larval host plant, and California buckwheat, the butterfly’s “favored nectar plant.” (*Id.*) However, the species itself was not found onsite during the protocol survey. The biological technical report concluded as follows:

[P]rotocol Hermes copper butterfly (*Lycaena hermes*) surveys conducted in 2014 and 2017 were **negative**, indicating the site is not occupied by the Hermes copper. . . Although not occupied, the site does support a limited amount of potential Hermes copper habitat as defined by the County guidelines; however, the potential for the species to colonize the site in the future is considered low. The nearest known Hermes copper butterfly location is 1.75 miles away to the southwest. Because the site is more than one mile from a known Hermes copper location, the negative survey results are **valid for a period of three years** in accordance with County guidelines.

(Biological Technical Report, p. 21 [emphasis added].)

As evidenced by the biologist’s report, the Project site contains the species of flora required to support a population of Hermes Copper Butterflies. The species has been spotted within 2 miles of the Project site and could feasibly have come to inhabit the Project site in the seven to ten years since the surveys were originally conducted. Moreover, the species’ known range expands over the entirety of the Project site:

⁸ CAL. DEPT. FISH & WILDLIFE, STATE AND FEDERALLY LISTED ENDANGERED AND THREATENED ANIMALS OF CALIFORNIA at 3 (July 2024), available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>.



(*Lycaena hermes* range shown in dark green over Project site.)⁹

Furthermore, the biological technical report itself stated that a negative finding is only valid for three years, meaning the Project site must be resurveyed to ensure that the species has not taken root there, particularly now that the species is federally listed as threatened.

The formal federal designation of the Hermes Copper Butterfly as threatened is a changed circumstance and necessitates additional species surveys, as does the expiration of the period of validity for the negative finding on the Project site in 2017.

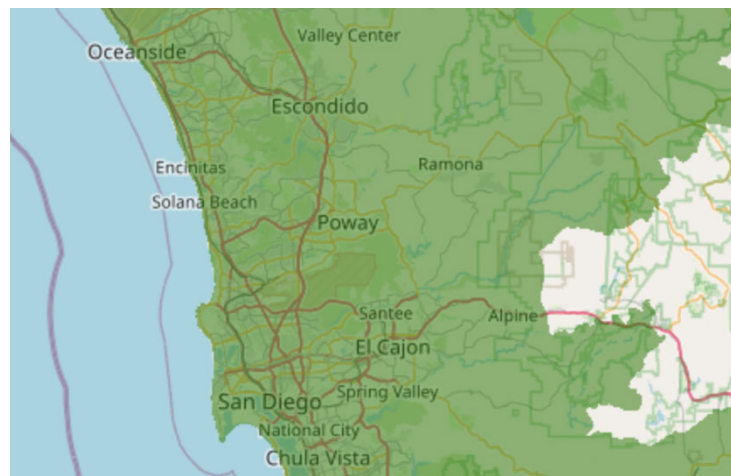
B. Western Spadefoot Toad

The Western Spadefoot Toad (*spea hammondi*) was federally proposed to be listed as threatened on December 5, 2023.¹⁰ A protocol survey was not completed for the western spadefoot toad at the time the biological technical report was released. However, the Project site serves as a potential habitat for the species.

⁹ U.S. FISH & WILDLIFE, *Hermes Copper Butterfly Interactive Map* (last visited Sept. 27, 2024), <https://www.fws.gov/species/hermes-copper-lycaena-hermes/map>.

¹⁰ CAL. DEPT. FISH & WILDLIFE, STATE AND FEDERALLY LISTED ENDANGERED AND THREATENED ANIMALS OF CALIFORNIA at 3 (July 2024), available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>.

The western spadefoot is “typically found in grasslands or other open vegetation, and require[s] sandy or gravelly soils where they can burrow.”¹¹ For breeding, they rely on “ephemeral ponds, vernal pools, slow streams, reservoirs, irrigation ditches, and road ruts.”¹² The Project site is less than a mile from the Olivenhain Dam & Reservoir, which is well suited to serve as a breeding ground for the species. The Project site itself would provide suitable open vegetation for the species’ burrows, is close to this potential breeding site, and is well within the species’ range. The species inhabits vast swaths of California, including much of San Diego:



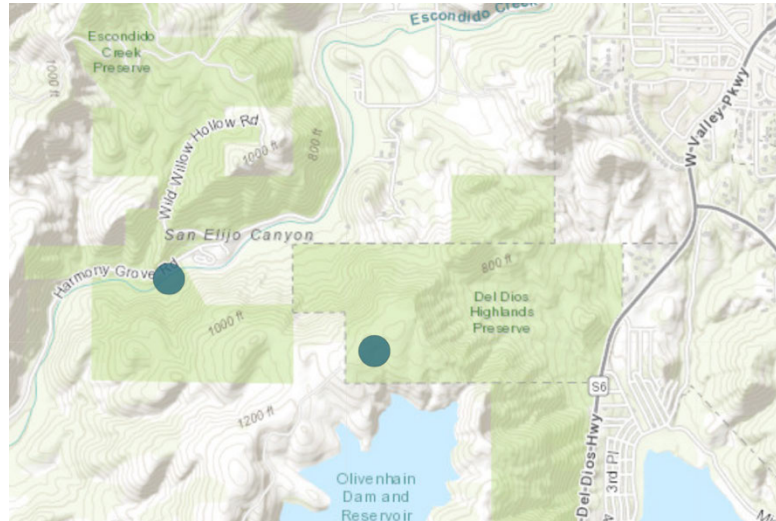
(*Spea hammondi* range shown in dark green.
Project site is located slightly southwest of Escondido.)¹³

¹¹ U.S. GEOLOGICAL SURVEY, HABITAT ASSESSMENT AND BASELINE SURVEYS FOR THE WESTERN SPADEFOOT AND WESTERN POND TURTLE ON THE IRVINE RANCH LAND RESERVE at 3 (Oct. 2004), https://sdmmp.com/upload/SDMMP_Repository/0/p7zfjg0vqt3y4k25d9rm8csxw6bnh1.pdf.

¹² *Id.*

¹³ U.S. FISH & WILDLIFE, *Western Spadefoot Toad Interactive Map* (last visited Sept. 27, 2024), <https://www.fws.gov/species/western-spadefoot-spea-hammondii/map>.

Moreover, the species has been documented in the area as recently as 2016:



(*Spea hammondi* occurrences shown as green dots, both observed in July 2016.)¹⁴

These known occurrences of the western spadefoot are less than a mile away from the Project site, with one observation taking place a mere half mile from the site.

These observations reveal the likelihood that the western spadefoot—which has recently been proposed for federal listing—inhabits the Project site, which provides access to all of the terrains that the species needs for survival. Impacts to the western spadefoot toad were not considered under the 2018 EIR.

The proposed listing serves as a changed circumstance and the species has been documented in the area, so biological surveys must be completed for the species on the Project site.

V. Impacts to Wildfire Safety Must Be Adequately Addressed

In response to the increase in severity and frequency of fires in California, the Attorney General's Office released new guidance on siting and design of development very high fire severity zones in 2023, titled "Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act".¹⁵

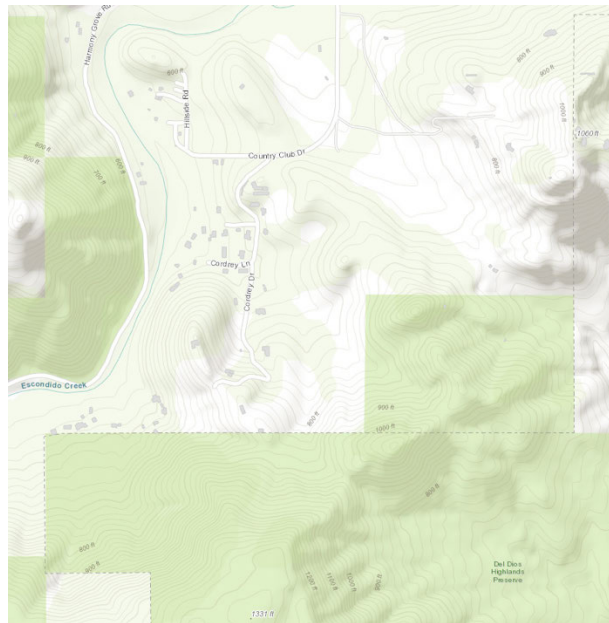
¹⁴ SAN DIEGO MANAGEMENT & MONITORING PROGRAM, *Western Spadefoot* (last visited Sept. 27, 2024), https://sdmmp.com/view_species.php?taxaid=206990#:~:text=Habitat%20Affinities&text=They%20prefer%20open%20areas%20with,months%20%5B6%2C1%5D.

¹⁵ <https://oag.ca.gov/system/files/attachments/press-docs/2022.10.10%20-%20Wildfire%20Guidance.pdf>

The Attorney General's Office explains, "Development in fire-prone areas increases the likelihood that more destructive fires will ignite, fire-fighting resources will be taxed, more habitat and people will be put in harm's way or displaced, and more structures will burn. It is therefore imperative that local jurisdictions making decisions to approve new developments carefully consider wildfire impacts as part of the environmental review process, plan where best to place new development, and mitigate wildfire impacts to the extent feasible."

In particular, the Attorney General explains that "siting residential structures in rugged terrain or on the top of steep hills may increase the wildfire risk.... Some EIRs have concluded that the conversion of some wildland vegetation into paved development reduces or does not increase wildfire risk. This conclusion is contrary to existing evidence and the well-accepted understanding that the fundamental driver of increased wildfire risk is the introduction of people into a flammable landscape."

Yet, the Project is being proposed along rugged, mountainous terrain, and would convert wildland vegetations.



San Diego Topography Map of Site



View of Project site from Del Dios Preserve

The Attorney General’s Office Memorandum further recommends “Construction of additional points of ingress and egress and modification of evacuation routes to minimize or avoid increasing evacuation times or emergency access response times.” Yet, the Project adds over 400 units to an area with constrained evacuation, without provision of a new egress.

At a minimum, the Project EIR must consider the Project’s inconsistencies with the Attorney General Office’s new guidance.

VI. Conclusion

The County erroneously approved this Project six years ago in 2018. The Court of Appeal found that the County violated CEQA in its approvals, and ordered the approvals and entire EIR rescinded.

Several changed conditions have occurred since approving the Project. The State of California established targets to greatly reduce VMT in the coming years, and more data has been published by San Diego County’s Metropolitan Planning Organization (SANDAG) about the Project site’s VMT impacts. The County itself has identified the Project site as being part of Unincorporated County areas “which do not meet infill definition.”

The Board of Supervisors recently voted to adopt the Fire Safe and Low VMT Alternative that was studied in the Climate Action Plan Environmental Impact Report, to be implemented through the Sustainable Land Use Framework. This Project sets the County and the State back in their goals to break free from the decades of car-centric development.

Urban sprawl only leads to more traffic congestion. It forces people into cars for longer and longer periods of time, as roadways become more burdened. It eats up San Diego's beautiful biodiverse habitat, open space, and agricultural lands—the areas of San Diego that make San Diego unique. It ends up costing taxpayers more in the long-run, as public services have to be extended further beyond the urban boundary. And clearly, urban sprawl has done little to help affordability.

The EIR must address the above identified deficiencies and adequately disclose and mitigate the Project's impacts to vehicle miles travelled, GHG emissions, biological resources, and wildfire safety.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink that reads "Kathryn Pettit". The signature is written in a cursive, flowing style.

Kathryn Pettit
Isabella Coye

EXHIBIT A

Find address or place



Filter

San Diego Region SB743 VMT Maps ☒

Forecast / ABM Version is

ABM2+ / 2021 RP

Residents/Employees is

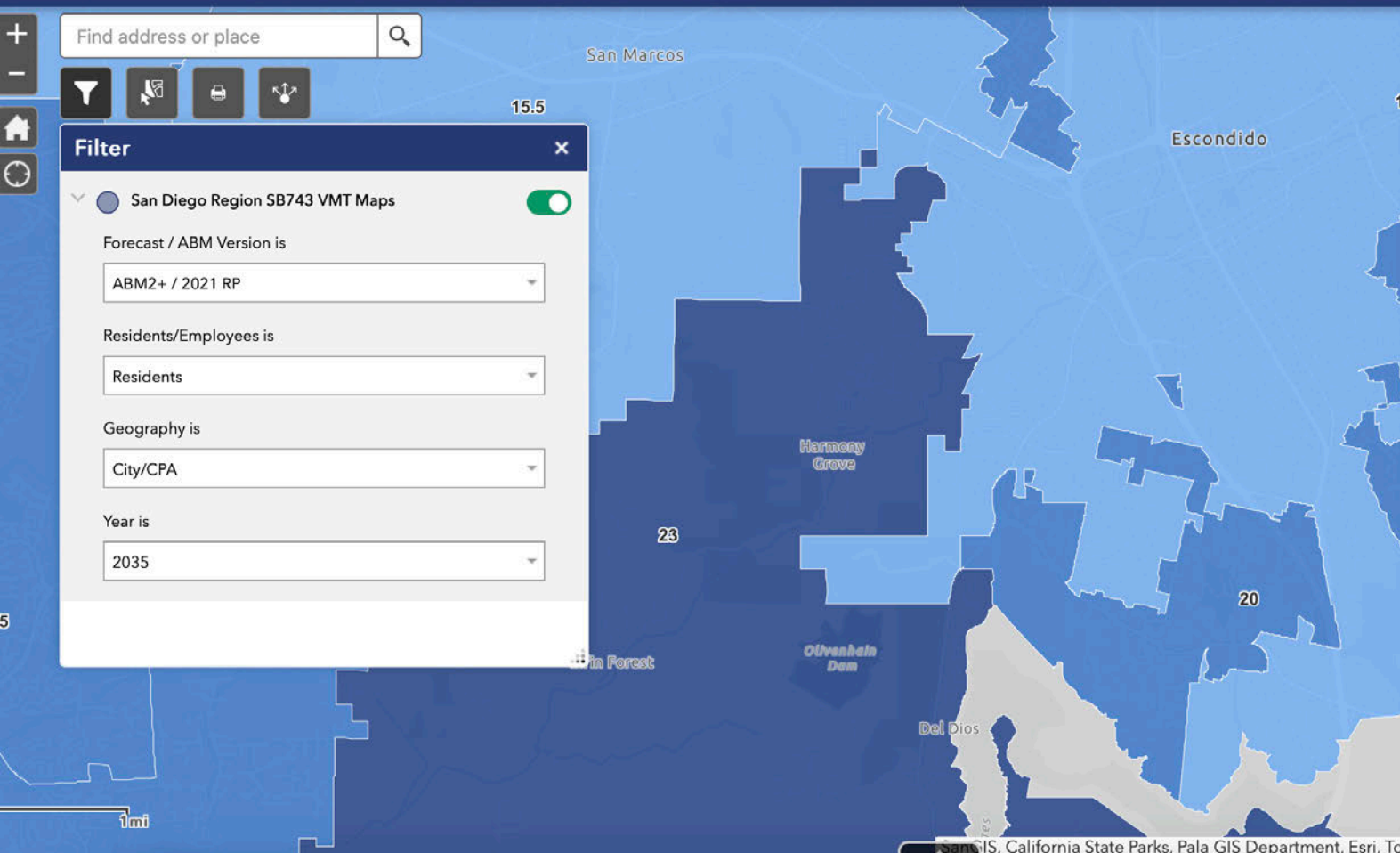
Residents

Geography is

City/CPA

Year is

2035



Map Legend / Disclaimer

Map Legend

Percent of Mean

- More than 125% of Regional Mean
- 100% to 125% of Regional Mean
- 85% to 100% of Regional Mean
- 50% to 85% of Regional Mean
- Less than 50% of Regional Mean
- No Data
- Not Enough Data

Current Data

2016 - ABM2+ / 2021 RP (Scenario ID 458)

Regional Mean = 18.9 VMT per Resident

Regional Mean = 18.9 VMT per Employee

2025 - ABM2+ / 2021 RP (Scenario ID 462)

Regional Mean = 17.7 VMT per Resident

Regional Mean = 17.0 VMT per Employee

2035 - ABM2+ / 2021 RP (Scenario ID 475)

Regional Mean = 16.6 VMT per Resident

Regional Mean = 15.3 VMT per Employee

2050 - ABM2+ / 2021 RP (Scenario ID 459)

Regional Mean = 16.0 VMT per Resident

Regional Mean = 14.3 VMT per Employee

Archived Data

2016 - ABM2 / 2019 RTP (Scenario ID 434)

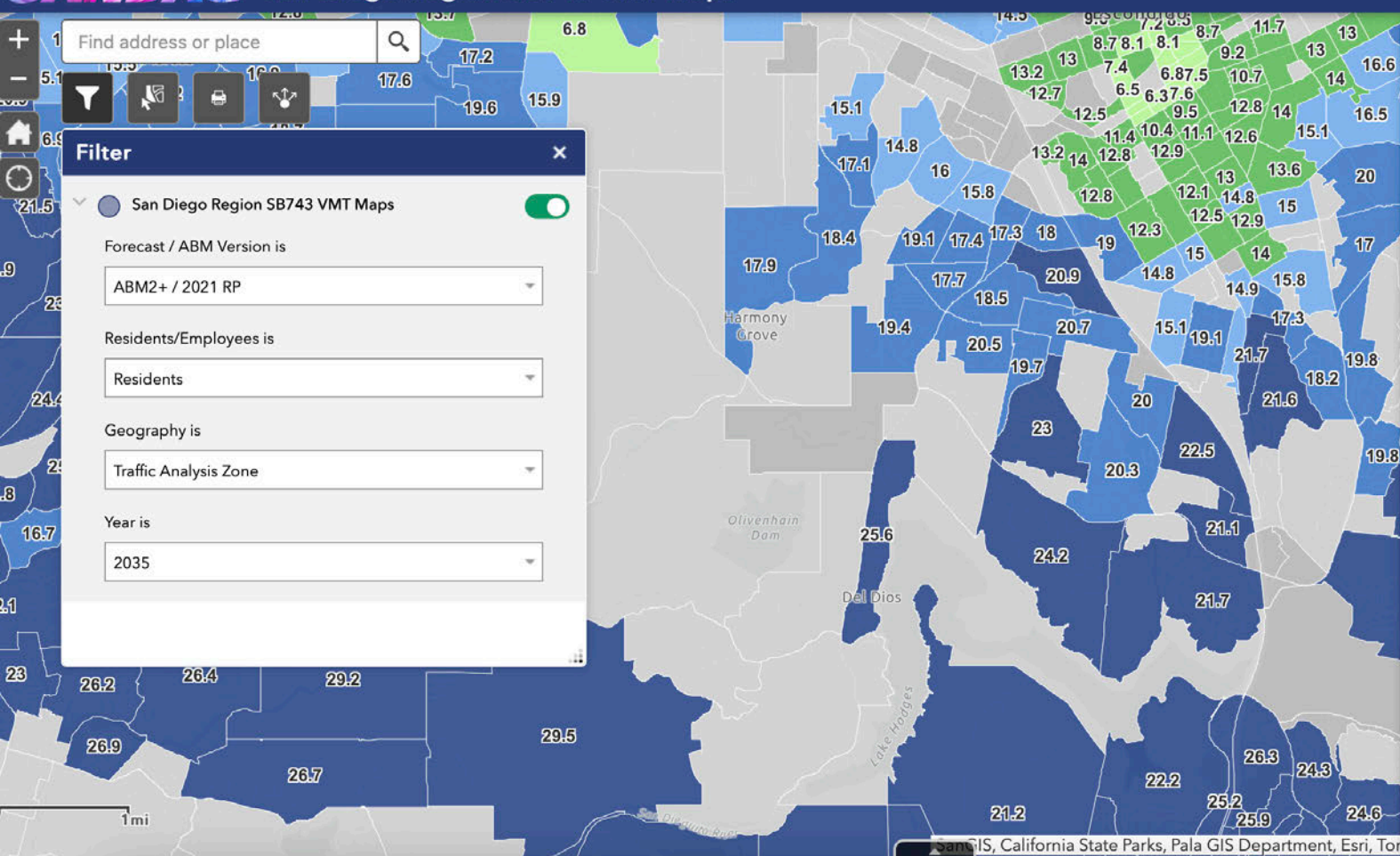
Regional Mean = 19.0 VMT per Resident

Regional Mean = 27.2 VMT per Employee

Disclaimer

The maps provided by SANDAG are an interpretation of the Senate Bill 743 Technical Advisory guidelines published by the California Office of Planning and Research.

SANDAG San Diego Region SB743 VMT Maps



Map Legend / Disclaimer

Map Legend

Percent of Mean

- More than 125% of Regional Mean
- 100% to 125% of Regional Mean
- 85% to 100% of Regional Mean
- 50% to 85% of Regional Mean
- Less than 50% of Regional Mean
- No Data
- Not Enough Data

Current Data

2016 - ABM2+ / 2021 RP (Scenario ID 458)

Regional Mean = 18.9 VMT per Resident
Regional Mean = 18.9 VMT per Employee

2025 - ABM2+ / 2021 RP (Scenario ID 462)

Regional Mean = 17.7 VMT per Resident
Regional Mean = 17.0 VMT per Employee

2035 - ABM2+ / 2021 RP (Scenario ID 475)

Regional Mean = 16.6 VMT per Resident
Regional Mean = 15.3 VMT per Employee

2050 - ABM2+ / 2021 RP (Scenario ID 459)

Regional Mean = 16.0 VMT per Resident
Regional Mean = 14.3 VMT per Employee

Archived Data

2016 - ABM2 / 2019 RTP (Scenario ID 434)

Regional Mean = 19.0 VMT per Resident
Regional Mean = 27.2 VMT per Employee

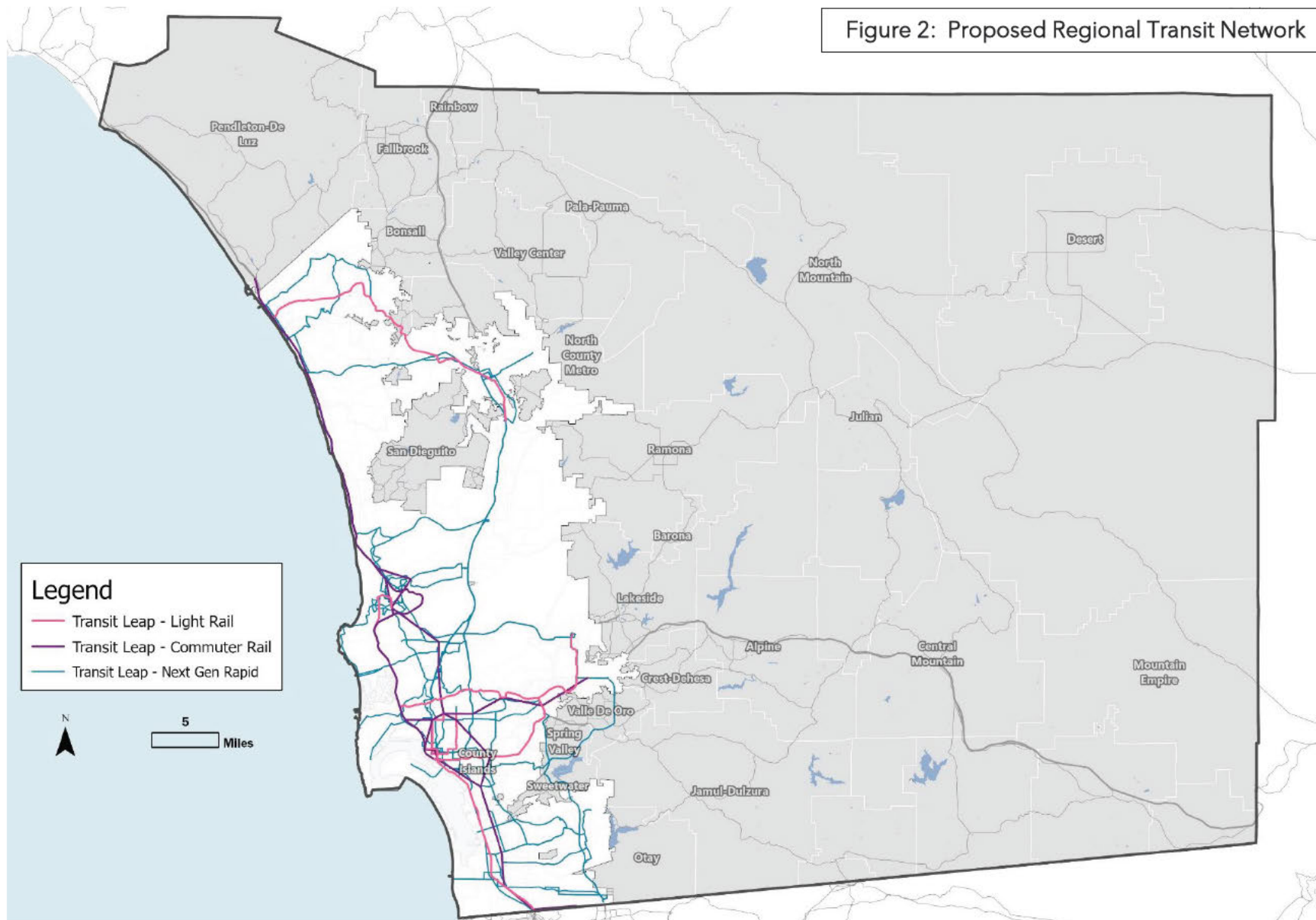
Disclaimer

The maps provided by SANDAG are an interpretation of the Senate Bill 743 Technical Advisory guidelines published by the California Office of Planning and Research.

EXHIBIT B



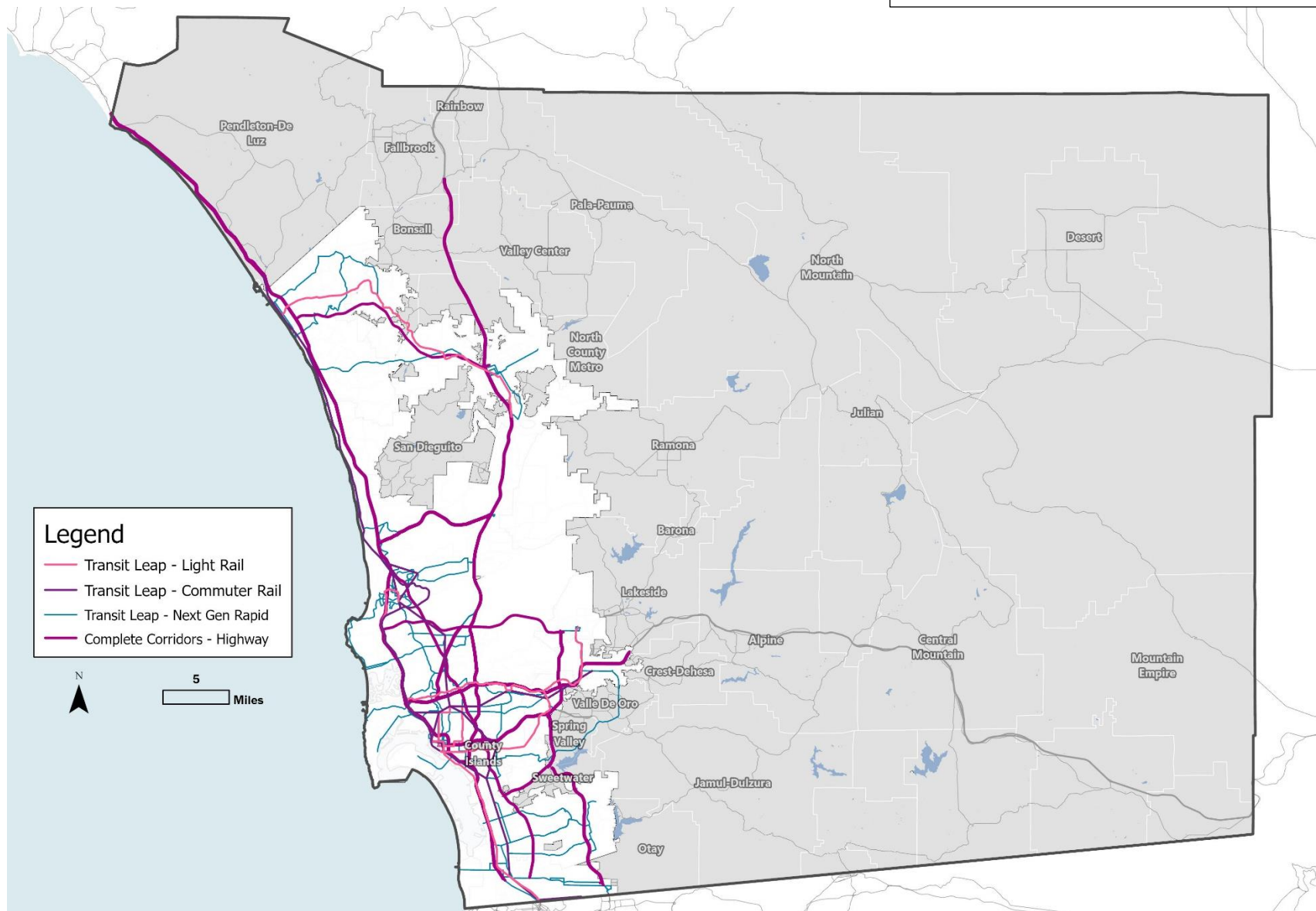
Figure 2: Proposed Regional Transit Network



Source: San Diego Forward - 2021 Regional Plan



Figure 3: Proposed Complete Corridors



Source: San Diego Forward - 2021 Regional Plan



Figure 4: Regional Mobility Hub Locations

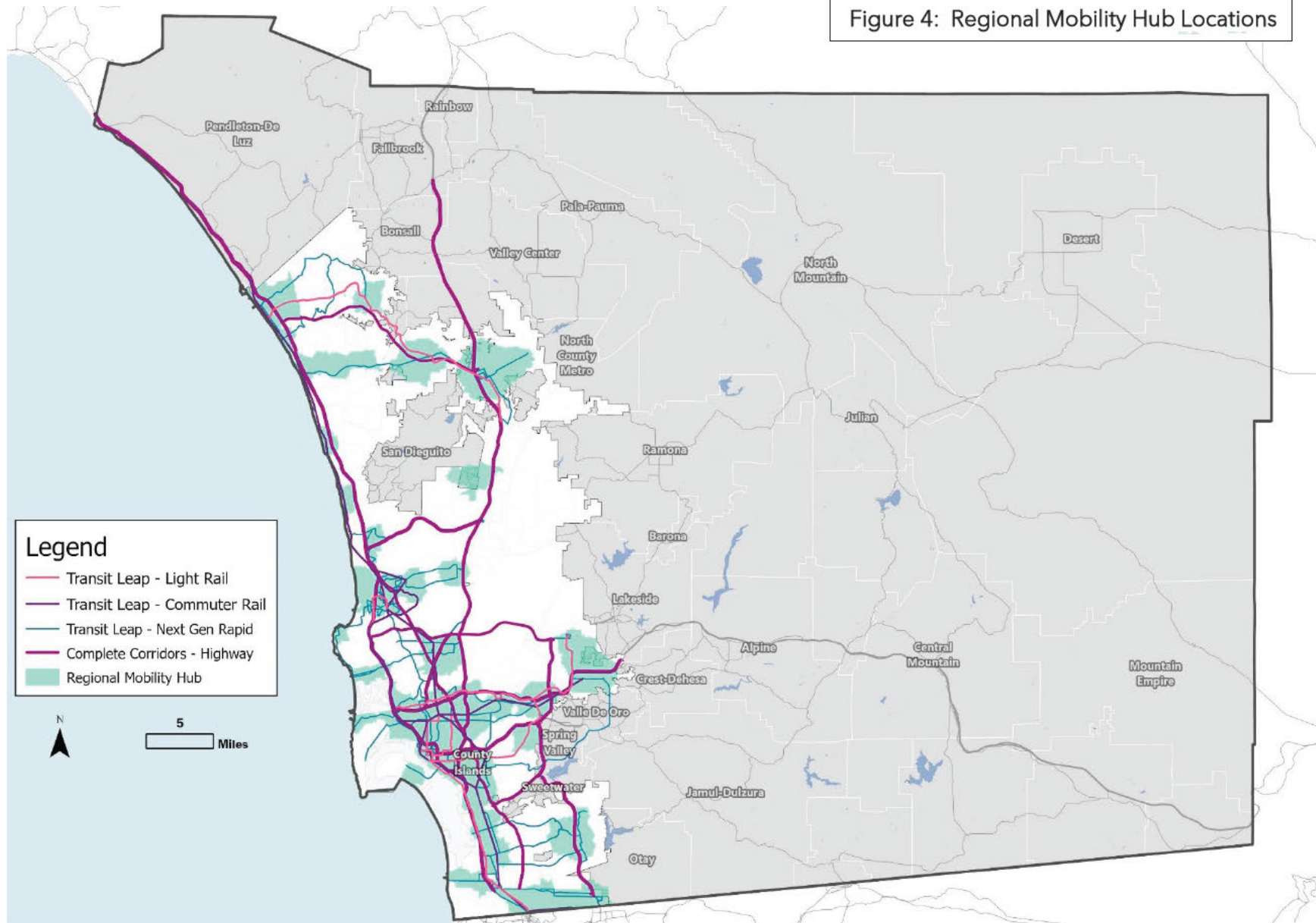


EXHIBIT C

No. D083555

**IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION ONE**

**CLEVELAND NATIONAL FOREST FOUNDATION and
COASTAL ENVIRONMENTAL RIGHTS FOUNDATION,**

Plaintiffs-Appellants,

v.

COUNTY OF SAN DIEGO

Defendant-Respondent.

On Appeal from the Superior Court
for the County of San Diego
Honorable Joel R. Wohlfeil
Case No. 37-2022-00044215-CU-WM-CTL

RESPONDENT'S BRIEF

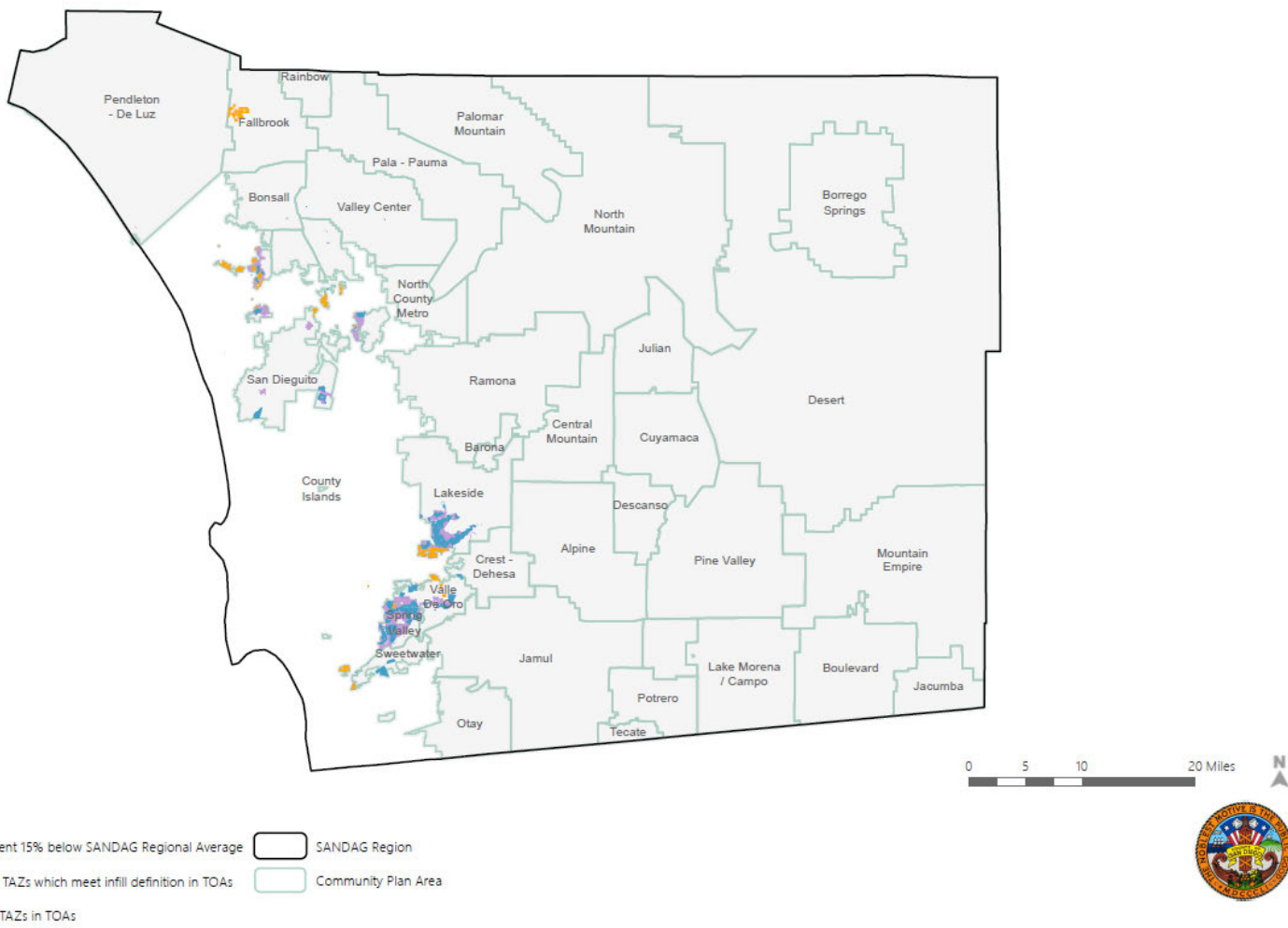
Michael P. Masterson (Bar. No. 239246)
Office of County Counsel, County of San Diego
1600 Pacific Highway, Room 355
San Diego, California 92101
Telephone: (619) 531-4860
Facsimile: (619) 531-6005

Counsel for Defendant-Respondent
COUNTY OF SAN DIEGO

substantial evidence to the contrary. (AR 23179–81; CEQA Guidelines 15064(b)(2), 15064.7.)

The VMT Efficient and Small Project thresholds were developed based on OPR’s Technical Advisory. (AR 23179–81.) The Infill Threshold was developed based on the Infill Screening Technical Memorandum (“Infill Memo”). (AA 23223–49 [TSG Appendix D].) The Infill Memo evaluated multiple land use and transportation network variables to create a quantitative definition for “infill development” in the County, including household density, intersection density, and jobs accessibility. (AR 23225; AR 23229–31.)

The areas that meet the infill definition generally align with intuitive concepts of urban areas; these locations are close to incorporated cities and within the sphere of development for urbanized San Diego. (AR 23232.) The following is a screening map, included in the TSG at AR 23219, which shows the defined Infill Areas, along with the VMT-Efficient Areas:



(AR 23219.)

D. The Trial Court Denied Appellants' CEQA Challenge to the TSG

Appellants filed a petition for writ of mandate in September 2022, challenging the County's approval of the TSG. (AA 4.) After considering written and oral arguments of the parties as well as the administrative record, the trial court denied the petition for writ of mandate. (AA 118–31.) This appeal followed.

are used only as a **limitation** on the areas that would otherwise qualify as Infill.

This is because the County adopted a quantitative definition of “Infill Areas” (AR 23180; AR 23225–31), but some areas meeting the Infill definition were located “further from existing and planned transit, generally east of the unincorporated boundary.” (AR 293.) Thus, those areas were removed because there is no existing or planned transit service, including Alpine, Ramona, and Fallbrook. (AR 45; AR 293.) “The Board directed staff to **exclude** Infill areas where it would be challenging to establish future successful transit service connections even though certain areas met the Infill criteria.” (AR 300 [emphasis added].) Accordingly, the TSG provides that for projects to be “screened out” from performing a VMT transportation impact analysis under the infill threshold, such projects must be located in a defined Infill Area that is also within a TOA. (AR 23183.) In other words, a project only complies with the TSG’s infill threshold if it meets the criteria for infill development **and** is within a TOA.⁸

As a result, Appellants have not shown that the Infill threshold improperly relies on future or speculative transit. In fact, when County staff mapped the VMT efficient and Infill Areas, it used the updated transportation model developed by SANDAG to estimate VMT within the region (the Series 14 model). (AR 44.) “These maps represent **existing** travel patterns within the region and are not based on future

⁸ As detailed in Respondent’s trial court Opposition Brief on the Merits, the County’s decision to place the TOA limitation on the infill threshold is consistent with CEQA and SB 743’s goal of promoting transit and *transit-oriented* infill development. (AA 91–92.)

d. The “Village Expansion” of Infill does not create any abuse of discretion

Appellants also attempt to discredit the infill threshold because the defined Infill Areas were “expanded” to include the entire boundary of any General Plan “Village” located within the Infill Areas. (AOB, pp. 53–54.) Appellants’ argument is without merit.

The County adopted the “Village Buffer” option to the infill threshold to reduce inconsistencies found in the travel demand modeling, as well as to “take advantage of the higher densities and mixed-uses associated with County Villages as described in the County’s General Plan.” (AR 285.) “The Village Buffer option builds upon the Infill Areas by including the entire boundary of the Village and helps account for inconsistencies with adjacent land-uses not adequately captured by the model but are otherwise consistent or have similar characteristics with the surrounding uses.” (AR 285–86.)

The “Village Buffer” is eminently supported by substantial evidence. The County’s General Plan identifies “Village Areas” within the unincorporated County, where higher density development and mixed-use development is to be concentrated. (AR 23279.) Village Areas function as the center of community planning areas and contain the highest population and development densities. (AR 23180.) “Ideally, a Village would reflect a development pattern that is characterized as compact, higher density development that is located within walking distance of commercial services, employment centers, civic uses, and transit (when feasible).” (AR 23180.) The main goal of the Village Areas

is to support multi-modal and mixed-use travel, as outlined in Goal LU-5.1 of the County's General Plan:

Reduction of Vehicle Trips within Communities.

Incorporate a mixture of uses within Villages and Rural Villages and plan residential densities at a level that support multi-modal transportation, including walking, bicycling, and the use of public transit, when appropriate.

(AR 23279.) Thus, the County's experts found that "[t]his makes the identified Village Areas as ideal locations to increase land use densities to draw and expand more regional transit services and Mobility Hub locations to the Unincorporated County." (AR 23279.) The County General Plan "recognized that the primary opportunities to reduce air quality pollutants and GHG emissions are in the urbanized areas of the County where there are land use patterns that can best support the increased use of transit and pedestrian activities since most GHGs and air pollutants result from mobile source emissions." (AR 23302.) As such, a project located "in a village context within the county can be considered an infill location because those locations represent the areas within the county that have the most compact land use pattern (as compared to rural areas)." (AR 23267.)

Appellants challenge the "Village Buffer" on grounds that the County "provided no evidence" that the travel demand model "actually created" inconsistencies that would make the Village Buffer expansion necessary. (AOB, p. 53.) However, substantial evidence includes expert opinion. CEQA Guideline 15384(b)(2). The County may also rely upon the opinion of its staff in reaching decisions. *Oakland Heritage All.*, 195 Cal. App. 4th at 900. Accordingly, the County staff expert opinion noted

TSG’s “small project” threshold is well supported by substantial evidence and Appellants have not shown otherwise.

CONCLUSION

Based on the foregoing, the County respectfully requests that the Court affirm the trial court’s judgment of dismissal. Appellants have not shown any CEQA violation in the County’s adoption of the TSG and its Infill and Small Project thresholds for VMT, which are supported by substantial evidence.

DATED: July 23, 2024

Respectfully submitted,

CLAUDIA G. SILVA, County Counsel

By *Michael Masterson*
Michael P. Masterson, Senior Deputy

Attorneys for Defendant-Respondent,
COUNTY OF SAN DIEGO

EXHIBIT D

T-13. Provide Electric Vehicle Charging Infrastructure



GHG Mitigation Potential



Up to 11.9% of GHG emissions from vehicles accessing the commercial or multi-family housing building

Co-Benefits (icon key on pg. 32)



Climate Resilience

Providing electric vehicle charging infrastructure increases fuel redundancy for electric vehicles even if an extreme weather event disrupts other fuel sources. Electric vehicles could also provide benefits to buildings and the grid, such as emergency backup, energy reserves, and demand response.

Health and Equity Considerations

Differential costs of PHEVs compared to conventional vehicles are decreasing over time, but at present are more expensive, which means this measure could disproportionately benefit those of greater economic means. As costs come into parity over time, this will be less of an issue. Employer, electricity provider, and state incentives for PHEV purchase could help address near-term disparities.

Measure Description

Install onsite electric vehicle chargers in an amount beyond what is required by the 2019 California Green Building Standards (CALGreen) at buildings with designated parking areas (e.g., commercial, educational, retail, multi-family). This will enable drivers of PHEVs to drive a larger share of miles in electric mode (eVMT), as opposed to gasoline-powered mode, thereby displacing GHG emissions from gasoline consumption with a lesser amount of indirect emissions from electricity. Most PHEVs owners charge their vehicles at home overnight. When making trips during the day, the vehicle will switch to gasoline mode if/when it reaches its maximum all-electric range.

Subsector

Parking or Road Pricing/Management

Locational Context

Urban, suburban, rural

Scale of Application

Project/Site

Implementation Requirements

Parking at the chargers must be limited to electric vehicles.

Cost Considerations

The primary costs associated with electric vehicle charging infrastructure include the capital costs of purchasing and installing charging stations, electricity costs from use of stations, and maintenance costs of keeping the charging stations in working order. Costs initially fall to the station owners, either municipalities or private owners, but can be passed along to station users with usage fees. Depending on station placement and charging times required for PHEVs, businesses near charging stations can derive benefits from patronage of station users.

Expanded Mitigation Options

In addition to increasing the percentage of electric miles for PHEVs, the increased availability of chargers from implementation of this measure could mitigate consumer "range anxiety" concerns and increase the adoption and use of battery electric vehicles (BEVs), but this potential effect is not included in the calculations as a conservative assumption. Expanded mitigation could include quantification of the effect of this measure on BEV use.





GHG Reduction Formula

$$A = \frac{B \times D \times (F - E) \times (G - (H \times I \times K \times L))}{-C \times J}$$

GHG Calculation Variables

ID	Variable	Value	Unit	Source
Output				
A	Percent reduction in GHG emissions from vehicles accessing the office building or housing	0–11.9	%	calculated
User Inputs				
B	Number of chargers installed at site	[]	integer	user input
C	Total vehicles accessing the site per day	[]	integer	user input
Constants, Assumptions, and Available Defaults				
D	Average number of PHEVs served per day per charger installed	2	integer	CARB 2019
E	Percent of PHEV miles in electric mode without measure	46	%	CARB 2020a
F	Percent of PHEV miles in electric mode with measure	80	%	CARB 2017
G	Average emission factor of PHEV in gasoline mode	205.1	g CO ₂ e per mile	CARB 2020a; U.S. DOE 2021
H	Energy efficiency of PHEV in electric mode	0.327	kilowatt hours (kWh) per mile	CARB 2020b; U.S. DOE 2021
I	Carbon intensity of local electricity provider	Tables E-4.3 and E-4.4	lb CO ₂ e per megawatt hour (MWh)	CA Utilities 2021
J	Average emission factor of non-electric vehicles accessing the site	307.5	g CO ₂ e per mile	CARB 2020a
K	conversion from lb to g	454	g per lb	conversion
L	Conversion from kWh to MWh	0.001	MWh per kWh	conversion

Further explanation of key variables:

- (D) – The average number of PHEVs served per day per charger installed is 2 vehicles (CARB 2019). If the user can provide a project-specific value, they should replace the default in the GHG reduction formula.
- (E) - Based on the EMFAC2017 model (v1.0.3), 46 percent of miles traveled by PHEVs in California are eVMT, and 54 percent are in gasoline mode (CARB 2020a).



- (F) – A review of EV user surveys and analytics included in the CARB’s *Advanced Clean Cars Mid-Term Report* suggest that PHEV owners can reach 80 percent eVMT with access to adequate supportive charging infrastructure (CARB 2017).
- (G) – As described for (J), the average GHG emission factor for gasoline vehicles is 307.5 grams of CO₂e per mile.
- The fuel efficiency of a PHEV in gasoline mode is calculated as 66.7 percent of the fuel consumption rate of a gasoline vehicle, based on the assumption that a gasoline hybrid vehicle has 50 percent higher fuel economy (miles per gal [mpg]) than a comparable gasoline vehicle, based on a comparison of the gasoline and hybrid Toyota Camry and Corolla models (U.S. DOE 2021). This percentage is applied to the average GHG emission factor for gasoline vehicles to determine the average emission factor for PHEVs in gasoline mode as $(66.7\% \times 307.5 \text{ g CO}_2\text{e per mile})$. If the user can provide a project-specific value by running EMFAC based on the future year of a project, they should replace the default in the GHG reduction formula.
- (H) – Scaled from a light-duty automobile gasoline equivalent fuel economy 30.3 mpg (CARB 2020a), an energy efficiency ratio (EER) of 2.5 (CARB 2020b), and an assumption of 33.7 kWh electricity per gallon of gasoline (U.S. DOE 2021).
- (I) – GHG intensity factors for major California electricity providers are provided in Tables E-4.3 and E-4.4 in Appendix C. If the project study area is not serviced by a listed electricity provider, or the user is able to provide a project-specific value (i.e., for the future year not referenced in Appendix C), the user should replace the default in the GHG calculation formula. If the electricity provider is not known, the user may elect to use the statewide grid average carbon intensity.
- (J) – The average GHG emission factor for non-electric vehicles accessing the site was calculated in terms of CO₂e per mile using EMFAC2017 (v1.0.3). The model was run for a 2020 statewide average of LDA, LDT1, and LDT2 vehicles using diesel and gasoline fuel. The running emission factors for CO₂, CH₄, and N₂O (CARB 2020a) were multiplied by the corresponding 100-year GWP values from the IPCC’s Fourth Assessment Report (IPCC 2007). If the user can provide a project-specific value (i.e., for a future year and project location), the user should run EMFAC to replace the default in the GHG reduction formula.

GHG Calculation Caps or Maximums

Measure Maximum

(A_{max}) The percent reduction in GHG emissions (A) is capped at 11.9 percent, which is based on the following assumptions used to generate a maximum scenario:

- (B) – number of chargers installed = 20. CALGreen provides a non-residential voluntary Tier 2 measure that requires projects with 201 or more parking spaces to allocate 10 percent of total parking spaces for “EV Capable” parking spaces (or 20 parking spaces) (CBSC 2019). Note that EV Capable parking spaces do not actually have EV chargers installed, though they do have electrical panel capacity, a dedicated branch circuit, and a raceway to the EV parking spot to support future installation of charging stations. Therefore, using the number of EV Capable parking spaces as a proxy for EV chargers as a high-end estimate is conservative.



- (C) – total vehicles accessing the site = 200. Per the CALGreen voluntary measure, the number of total parking spaces that correspond with 20 “EV Capable” parking spaces is 201.
- (D) – PHEVs served per day per charger installed = 7. This value is the max (D_{max}). This assumes that all PHEV drivers would coordinate sharing of the limited number of chargers at the site. Value is based on data from the National Renewable Energy Laboratory (CARB 2019).
- (I) – carbon intensity of local electricity provider = 0 lb CO_{2e} per MWh. This assumes that the local electricity provider is powered 100 percent by renewables and thus has a carbon intensity of zero.

Subsector Maximum

($\sum A_{maxT-1 \text{ through } T-3} \leq 35\%$) This measure is in the Parking or Road Pricing/Management subsector. This subcategory includes Measures T-13 through T-15. The VMT reduction from the combined implementation of all measures within this subsector is capped at 35 percent.

Example GHG Reduction Quantification

The user will install electric vehicle chargers at their proposed office or multifamily housing development, which will enable employees or residents with PHEVs to drive a larger share of miles in electric mode, as opposed to gasoline-powered mode, thereby displacing GHG emissions from gasoline consumption with a lesser amount of indirect emissions from indirect electricity. In this example, 20 chargers (B) will be installed at a workplace with 200 daily employee vehicles accessing the site (C). The electricity provider for the project area is the Sacramento Municipal Utility District (SMUD) and the analysis year is 2022. The carbon intensity of electricity is therefore 344 lb CO_{2e} per MWh (I). The GHG impact is calculated as a 3.4 percent reduction from the total emissions from vehicles accessing the site.

A =

$$\frac{20 \times 2 \frac{\text{PHEVs}}{\text{charger} \cdot \text{day}} \times (80\% - 46\%) \times (205.1 \frac{\text{g CO}_2\text{e}}{\text{miles}} - (0.327 \frac{\text{kWh}}{\text{mile}} \times 344 \frac{\text{lb CO}_2\text{e}}{\text{MWh}} \times 454 \frac{\text{g}}{\text{lb}} \times 0.001 \frac{\text{MWh}}{\text{kWh}}))}{-200 \text{ vehicles} \times 307.5 \frac{\text{g CO}_2\text{e}}{\text{miles}}} = 3.4\%$$

Quantified Co-Benefits

While the measure will achieve fuel savings, it will also increase electricity consumption. This section defines the methods for quantifying Improved Local Air Quality and fuel savings, as well as increased electricity consumption.



Improved Local Air Quality

Local criteria pollutants will be reduced by the reduction in fossil fuel combustion. The percent reduction in criteria pollutants can be calculated using the GHG reduction formula. Electricity supplied by statewide fossil-fueled or bioenergy power plants will generate criteria pollutants. However, because these power plants are located throughout the state, electricity consumption from vehicles charging will not generate localized criteria pollutant emissions. Consequently, for the quantification



of criteria pollutant emission reductions, either the electricity portion of the equation can be removed, or the electricity intensity (I) can be set to zero.



Fuel Savings (Increased Electricity)

The percent reduction in vehicle fuel consumption would be the same as the percent reduction in criteria pollutant emissions. The percent increase in electricity use (M) from this measure can be calculated as follows.

Electricity Increase Formula

$$M = \frac{B \times D \times (F - E) \times J \times N \times O}{-C \times P}$$

Electricity Increase Calculation Variables

ID	Variable	Value	Unit	Source
Output				
M	Increase in electricity from PHEVs	[]	%	calculated
User Inputs				
N	Existing electricity consumption of project/site	[]	kWh per year	user input
O	Days per year with vehicles accessing the site	260–365	days per year	user input
P	Average annual VMT of vehicles accessing the site	[]	miles per day per vehicle	user input
Constants, Assumptions, and Available Defaults				
None				

Further explanation of key variables:

- (N) – The user should take care to properly quantify building electricity using accepted methodologies (such as CalEEMod).
- (O) – If the proposed development is a workplace in which employees access the site an average of 5 days per week, the user should input 260 workdays. If the development is multi-family dwelling, the user should input 365 days.
- Please refer to the *GHG Calculation Variables* table above for definitions of variables that have been previously defined.

Sources

- California Air Resources Board (CARB). 2017. *Advanced Clean Cars Mid-Term Report, Appendix G: Plug-in Electric Vehicle In-Use and Charging Data Analysis*. Available: <https://ww2.arb.ca.gov/resources/documents/2017-midterm-review-report>. Accessed: January 2021.
- California Air Resources Board (CARB). 2019. *Final Sustainable Communities Strategy Program and Evaluation Guidelines Appendices*. November. Available: <https://ww2.arb.ca.gov/sites/default/files/2019-11/Final%20SCS%20Program%20and%20Evaluation%20Guidelines%20Appendices.pdf>. Accessed: January 2021.



- California Air Resources Board (CARB). 2020a. *EMFAC2017 v1.0.3*. August. Available: <https://arb.ca.gov/emfac/emissions-inventory>. Accessed: January 2021.
- California Air Resources Board (CARB). 2020b. *Unofficial electronic version of the Low Carbon Fuel Standard Regulation*. Available: https://ww2.arb.ca.gov/sites/default/files/2020-07/2020_lcfs_fro_oal-approved_unofficial_06302020.pdf
- California Air Resources Board (CARB). 2021. *OFFROAD2017-ORION*. Available: <https://arb.ca.gov/emfac/emissions-inventory>. Database queried by Ramboll and provided electronically to ICF. March, 2021.
- California Utilities. 2021. Excel database of GHG emission factors for delivered electricity, provided to the Sacramento Metropolitan Air Quality Management District and ICF. January through March, 2021.
- California Building Standards Commission (CBSC). 2019. *Green Building Standards Code, Title 24, Part 11. Appendix A5 – Nonresidential Voluntary Measures. Table A5.601 Nonresidential Buildings: Green Building Standards Code Proposed Performance Approach*. July. Available: <https://codes.iccsafe.org/content/CAGBSC2019/appendix-a5-nonresidential-voluntary-measures>. Accessed: May 2021.
- Intergovernmental Panel on Climate Change (IPCC). 2007. *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K. B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, 996 pp. Available: <https://www.ipcc.ch/report/ar4/wg1/>. Accessed: January 2021.
- U.S. Department of Energy (U.S. DOE). 2021. *Download Fuel Economy Data*. January. Available: <https://www.fueleconomy.gov/feg/download.shtml>. Accessed: January 2021.

From: [David Field](#)
To: [Lawson-Remer, Terra](#); [Anderson, Joel](#); [MontgomerySteppe, Monica](#); [Desmond, Jim](#); [Aguirre, Paloma x](#); [Potter, Andrew](#); [FGG, Public Comment](#); [Worlie, Paul](#); [LaVelle, Kyle](#); [Hayes, Andrew](#); [Yuen, Jeffrey](#); [Henson, Eric](#); [McDonald, Hunter](#); [Lynch, Dahvia](#); [Harbert, Amy](#); [Slovick, Mark](#); [efhgtc@gmail.com](#); [Lorenzana, Bianca](#); [Montagne, Sarah](#); [mcquead@rsf-fire.org](#); [ashcraft@rsf-fire.org](#); [hillgren@rsf-fire.org](#); [malin@rsf-fire.org](#); [stine@rsf-fire.org](#); [Nicoletti, Vince](#)
Subject: [External] HGVS = Gridlock, Danger, and Lost Lives
Date: Tuesday, September 30, 2025 8:33:31 AM

Dear Chair Lawson-Remer and Members of the Board,

Our house burned down in the Cocos Fire. Many of our neighbors lost their homes, also. The terror of that event is still with us. The uncertainty of knowing whether or not our house survived. We saw the fire on the hill and it moved very fast down towards Harmony Grove Spiritualists and the area where HGV South is being proposed. There is nothing scarier than seeing your neighbors wrestle livestock trailers and unruly animals to try to get them out in time. The evacuation took at least 2 hours. And that was before any developments in the community.

As a community, we're well aware of the fire danger. We keep "go bags" at the ready. We load our trailers every time there is a red flag warning. Some of my neighbors are third generation residents and have seen the many fires (once a decade) that have ravaged this little valley. We've lost hundreds of homes over the years and even suffered fatalities. We are all prepared for the next wildfire. What we are not prepared for, however, is the entrapment that is in store for us with a community that continues to accept (and support) additional housing but without any major improvements in the evacuation infrastructure.

Many barely made it out during the Cocos Fire and that was a few hundred cars and dozens of livestock trailers. If HGV South is built, the total number of vehicles evacuating during the next fire will number in the thousands. Nationally renowned evacuation experts have analyzed the area and estimate it will take 7 hours to evacuate, but the fire arrives within an hour or two. This can only mean entrapment.

We cannot gamble with human lives just because a billionaire from Colorado throws a bunch of money at our fire district, our unions and our elected officials. Please vote no on Harmony Grove Village South or at least require a secondary access. Put community safety ahead of development interests.

Thank you for your leadership and for protecting the people you represent.

Sincerely,

David and Caroline Field

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: [Joy Wegner](#)
To: [Lawson-Remer, Terra](#); [Anderson, Joel](#); [MontgomerySteppe, Monica](#); [Desmond, Jim](#); [Aguirre, Paloma x](#); [Potter, Andrew](#); [FGG, Public Comment](#); [Worlie, Paul](#); [Hayes, Andrew](#); [Yuen, Jeffrey](#); [Henson, Eric](#); [McDonald, Hunter](#); [Lynch, Dahvia](#); [Harbert, Amy](#); [Slovick, Mark](#); [efhtgc@gmail.com](#); [Lorenzana, Bianca](#); [Montagne, Sarah](#); [mcquead@rsf-fire.org](#); [ashcraft@rsf-fire.org](#); [hillgren@rsf-fire.org](#); [malin@rsf-fire.org](#); [stine@rsf-fire.org](#); [Nicoletti, Vince](#)
Cc: [Bud Wegner](#); [Joy Wegner](#)
Subject: [External] terra.lawson-remmer@sdcounty.ca.gov, joel.anderson@sdcounty.ca.gov, monica.montgomerysteppe@sdcounty.ca.gov, Jim.Desmond@sdcounty.ca.gov, PA@sdcounty.ca.gov, Andrew.Potter@sdcounty.ca.gov, PublicComment@sdcounty.ca.gov, Paul.Worlie@sdcounty.c...
Date: Tuesday, September 30, 2025 9:17:46 AM

Hello Chair Lawson-Remer and board:

We moved into Harmony Grove in August 2025. We are acutely aware that this is classified as a high fire risk community.

We are also sharply aware of the limited evacuation routes out of this area. We are learning how to evacuate quickly, what evacuation route options we have, and methods to get out of harm's way at the earliest possible time.

At a recent community meeting we learned that a developer was seeking to add another 453 homes in the brush covered area south of the Escondido Creek. This area is notoriously flammable and has only one way in and one way out. Incredibly, we learned that the county planners are recommending approving this project without a secondary access.

The fire chief told us that the project doesn't actually meet today's safety standards without secondary access. "It would not pass today" are the exact words he said. It barely meets the 2018 standards from when the project first was voted on. Much has changed since 2018.

WHY ARE WE NOT TAKING WHAT WE HAVE LEARNED IN WILDFIRE EVENTS SINCE 2018? We've seen close to 50,000 homes burn down all over California. We've seen so many fatalities (many due to evacuation issues) and the state and local codes have tightened up considerably.

What we also learned in that same community meeting last week was that on one end of the valley, with HGV South built, 3500 vehicles will hit our narrow little roads all at once. The county never did a community-wide analysis (though we asked) of what the evacuation would look like under the fully built-out conditions, so the community had to raise funds to conduct their own study. It showed an almost-certainty of entrapment with 7 hours or more to evacuate the community (the fire arrival time is conservatively 1 to 2 hours).

The deputy chief at the very same meeting told us, in stark terms: "you better get used to sheltering in place because evacuation is not likely to be safe." That's sobering news because even the most fire-hardened homes burn down (45% burned down during Camp Fire and higher percentages in the Tubbs and Paradise fires). And closely spaced homes are the most at risk according to the extensive research done on California fire structure loss.

It is a terrible choice to make. This HGVS project will be the straw that breaks the camel's back. The next fire that comes through here will likely be before some of you retire. If you vote yes, you are owning whatever the consequences are.

Please understand, we are not asking that HGVS not be built. Much as we love the rural

atmosphere in our community currently, we also understand a developer's right to profit, and the need for housing in Southern California. (Though we do wonder about the profitability of trying to sell homes in this high-fire-risk zone given the near impossibility of obtaining homeowner fire insurance.)

All we are seeking is for the developer, and the county, to acknowledge what we know today about wildfire evacuation plans and management, and not put our lives nor those of new neighbors, at such high risk. Please say "NO" to HGVS project until appropriate plans for additional evacuation routes can be included, indeed demanded.

Please vote no on this project or at the bare minimum enforce the secondary access requirement.

Respectfully,

Joy and Bud Wegner

A large black rectangular redaction box covering the signature area, with a small white rectangular cutout on the right side.

From: [Joy Wegner](#)
To: [FGG, Public Comment](#)
Subject: [External] Approval of Harmony Grove Village South development
Date: Tuesday, September 30, 2025 9:24:59 AM

We moved into Harmony Grove in August 2025. We are acutely aware that this is classified as a high fire risk community.

We are also sharply aware of the limited evacuation routes out of this area. We are learning how to evacuate quickly, what evacuation route options we have, and methods to get out of harm's way at the earliest possible time.

At a recent community meeting we learned that a developer was seeking to add another 453 homes in the brush covered area south of the Escondido Creek. This area is notoriously flammable and has only one way in and one way out. Incredibly, we learned that the county planners are recommending approving this project without a secondary access.

The fire chief told us that the project doesn't actually meet today's safety standards without secondary access. "It would not pass today" are the exact words he said. It barely meets the 2018 standards from when the project first was voted on. Much has changed since 2018.

WHY ARE WE NOT TAKING WHAT WE HAVE LEARNED IN WILDFIRE EVENTS SINCE 2018? We've seen close to 50,000 homes burn down all over California. We've seen so many fatalities (many due to evacuation issues) and the state and local codes have tightened up considerably.

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Respectfully,

Joy and Bud Wegner



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September 30, 2025

VIA EMAIL ONLY

Honorable Chair Lawson-Remer
San Diego County Board of Supervisors
1600 Pacific Highway,
County of San Diego
San Diego, CA 92123
E-Mail: PublicComment@sdcounty.ca.gov

Re: Board of Supervisors meeting October 1, 2025, Item 4 (HGV South)

Dear Honorable Chairperson Lawson-Remer and Board of Supervisors;

This firm represents RCS-Harmony Partners, LLC ("RCS"), the developer of a master-planned community commonly known as the "Harmony Grove Village South Project" ("Project" or "HGV South") located within the Harmony Grove Subarea of the San Dieguito Community Plan Area. The County Board of Supervisors (Board) originally approved entitlements for the Project and certified the Project's FEIR (2018 FEIR) on July 25, 2018.

After several years of litigation, the California Court of Appeal, Fourth Appellate District, Division One (Appellate Court in its Appellate Decision) found that the 2018 FEIR complied with CEQA except for one environmental issue related to its GHG mitigation measure. The Entitlements were also determined to be consistent with the County's General Plan except for providing an affordable housing component.¹

¹ Elfin Forest Harmony Grove Town Council et al. v. County of San Diego and RCS, 37-2018-00042927, Court of Appeal, Fourth Appellate District (Division One), filed October 14, 2021. Sierra Club v. County of San Diego (December 21, 2021) (case No. 37-2018-00043084 CU TT CTL).

RCS has corrected the GHG mitigation measure and added an affordable housing component to the Project to comply with the Appellate Decision. Subchapter 2.7 of the 2018 EIR has been wholly replaced with a new Subchapter 2.7 that includes the new mitigation measure, updates the GHG analysis, and revises related Project Design Features. A new 2024 Global Climate Change Report prepared by Ldn Consulting, Inc., the 2024 Updated ConSol Evaluation, the Off-site Solar Panel Installation for GHG Mitigation, and Set Aside Fund Review were also included to replace and augment analogous 2018 EIR documents (referred to collectively as “new Subchapter 2.7.”) The new Subchapter 2.7 is included in the 2025 Revised Final EIR (2025 RFEIR).

After careful examination of the changes made to the Project, the County determined that because the Project has not changed and is within the scope of the previously certified 2018 EIR, only the portion of the EIR that pertains to the GHG mitigation measure had to be amended and recirculated for public review.

The Project entitlements and the 2025 RFEIR was considered by the County of San Diego Planning Commission on August 22, 2025, wherein they recommended approval and certification of the documents, respectively. Immediately prior to the Planning Commission hearing on the Project the County received a total of 61 letters on the 2025 RFEIR; 46 in opposition to the Project and 15 in support. It is expected that the Board will receive similar communications and hear similar testimony.

This correspondence has been prepared to address the comments received by the County opposing the Project and the various issues raised regarding the 2025 RFEIR. Some letters addressed GHG-relevant issues or General Plan compliance issue of affordable housing. Those comments / issues are addressed first in the discussions below, as issues for which information has been presented since 2018 and which are before the Board.

Generally, letters in support noted lack of regional housing; support for the Project’s affordable housing component, as well as its overall commitment to more “attainable,” or “middle-market” homes; contributions to sustainability and electrical grid reliability through clean energy commitments (net zero emissions and charging stations in every garage) and environmental stewardship (including set aside of approximately 35 acres, or 31 percent of the property, into permanent protected open space); and job creation through use of local union labor. While germane to Board consideration, these comments do not raise issues associated with environmental analyses completed for the Project and do not require response.

It is noted that the great majority of the comments against the Project were focused on fire safety or evacuation; both items are *beyond the scope* of the 2025 RFEIR. A number of the current letters were also verbatim in content and identified similar concerns that have already been decided after years of litigation. Such matters are controlled by the principles of *res judicata*, a Latin term

meaning “a matter judged.” Under this principle, once a court decides a particular issue or finding of fact in a final ruling, that issue or fact is considered settled, and parties are generally precluded from relitigating the same issue or fact. Allowing such claims to be relitigated would impose significant burdens on parties and the courts could lead to inconsistent rulings or judgments that create confusion and inefficiency and would be unfair to the party that has already prevailed in previous litigation.

In conclusion prior communications and the responses are available on the Project website for reference at https://www.sandiegocounty.gov/content/sdc/pds/Current_Projects/hgvs.html. For purposes of the record, however, this additional response (please see Exhibit 1) is provided to address the concerns raised by many of the letters provided to the Planning Commission before the public hearing, even though such matters were beyond the scope of the 2025 RFEIR. For ease of reference, a letter sent to the Planning Commission, dated August 18, 2025, on behalf of RCS, and discussed in the response herein, is also attached as Exhibit 2 and incorporated herein.

Very truly yours,
NORTON MOORE & ADAMS

A handwritten signature in cursive script, appearing to read "Ann Moore".

Ann Y. Moore

Attachments

EXHIBIT 1

**Combined Response to Comments Received between August 19 and 21, 2025
prior to Planning Commission Hearing
and
Testimony Presented at Planning Commission Hearing, August 22, 2025**

Prior communications on the 2025 FEIR / Revised FEIR and the responses to them are posted on the County Project website and are available for reference. In the interest of continued clarification, this additional response is provided. Each of the issues summarized below is answered, and inaccuracies in the comments are addressed.

Greenhouse gas (GHG) and housing issues are addressed as items 1 and 2. These are the issues the Court of Appeal found to be deficient in the 2018 FEIR and were corrected during 2024 recirculation of EIR Subchapter 2.7 and Associated Documents. Fire safety and evacuation issues are addressed as item 3, with smart growth/sprawl addressed as item 4. Although the Court of Appeal specifically found those issues to have been adequately analyzed, these are important community issues and the facts bear reiteration. Finally, issues raised regarding County process or non-CEQA issues are discussed as items 5 and 6, respectively, in order of the list and reference page numbers below. *None of the issues raised require changes to Project design or the analyses before the Board for consideration.*

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ISSUES RAISED / QUESTIONS ANSWERED

1. GHG ANALYSIS AND MITIGATION

Comments related to GHG analysis and mitigation received prior to the Planning Commission meeting reiterate prior comments provided and answered within the RFEIR. The following clarifications and references to locations of previous responses are provided for reference but do not contain new information related to GHG analysis or mitigation. References in the comment letter from Shute, Mihaly, and Weinberger (SMW) to two attachments provided as part of the comments on the 2024 GHG recirculation were addressed in responses to Letters ReO6c and ReO6d; no new information related to those attachments or associated responses in the RFEIR is provided in the current comment letter.

GHG Targets and 2022 CARB and 2021 SANDAG Planning Documents. One letter repeats the same incorrect statement that the Project’s analysis of GHG emissions did not consider current statewide GHG reduction targets and associated planning documents, including the California Air

Resources Board (CARB) 2022 Scoping Plan and a 2021 San Diego Association of Governments (SANDAG) updated regional plan. These plans were, however, appropriately addressed in the FEIR and were available for review during 2024 recirculation of Subchapter 2.7, *Greenhouse Gas Emissions*. As the SANDAG Regional Plan focuses on land use planning related to VMT and project location, comments related to these topics are also addressed below.

2022 CARB Scoping Plan. More specifically, the 2022 CARB Scoping Plan was discussed on pages 2.7-13, -18, -19, -30, -33, 34, 38, and -41 of recirculated Subchapter 2.7. The RFEIR analyzed the Project in light of the 2022 CARB Scoping Plan, finding it consistent with the goal of achieving carbon neutrality by 2045 by achieving no net increase in GHG emissions. Specifically recirculated Subchapter 2.7 states (emphasis added):

...the Project would attain a net zero MT CO₂e increase in GHG emissions, which is consistent with AB 1279, and on track for meeting the SB 32 and EO S-3-05 reduction targets, as well as consistent with the recently approved (2022) Scoping Plan update which lays out the sector-by-sector roadmap for California to achieve carbon neutrality by 2045 (see page 2.7-30).

As excerpted from RFEIR page RTC-ReO6a-21 (emphasis added):

By achieving no net increase in GHG emissions, the Project demonstrates consistency with the statewide GHG reduction target of achieving carbon neutrality by 2045. The Project exceeds the requirements of the 2022 CARB Scoping Plan by offsetting GHG emissions by 100 percent at the time of full occupancy much sooner than the 2045 neutrality requirement.”

SANDAG Updated Regional Plan. Subchapter 2.7 of the RFEIR includes a discussion of the Project’s consistency with Regional Plan goals and the updated SANDAG 2021 Regional Plan (also known as San Diego Forward), as discussed on pages 2.7-16, -17, and -30 through -32 of recirculated Subchapter 2.7. As explained in the 2025 FEIR, while San Diego Forward **does not regulate land use** or supersede the exercise of land use authority by SANDAG’s member jurisdictions (i.e., the County of San Diego), it does provide direction and guidance on future regional growth (i.e., the location of new residential and non-residential land uses) and transportation patterns throughout San Diego County. The County determined (page 2.7-31, emphasis added) that:

*By locating the Proposed Project near existing and planned infrastructure, services, and jobs in a compact pattern of development, while at the same time promoting sustainability among its residents, the Project has been designed around the guiding principles of the General Plan. **Developing the Proposed Project in this manner meets a number of the objectives of San Diego Forward**, AB 32, and SB 375.*

While the Project site was not identified for development in SANDAG's San Diego Forward 2020 forecasted development pattern maps, the Project site location was identified for development consistent with the 2011 General Plan in the SANDAG 2035 forecast development pattern map, and is in-line with the SCS GHG benefits as the Project would support and/or provide a range of housing types, services and jobs in a compact pattern of development located within 0.5 mile (a 10-minute walk) of commercial and civic facilities, and is located near to transit stops and employment centers. This in turn, would reduce the size of required infrastructure improvements and the number and length of automobile trips. It is also noted that SANDAG has identified the average trip length as 7.9 miles. As noted above, the average distance of Project trips was calculated by LLG to be 7.88 miles, which is consistent with 7.9 (see Appendix C to 2018 EIR Appendix J).

Vehicle Miles Traveled (VMT). The same parties (Elfin Forest Harmony Grove Town Council; EFHGTC) to the original litigation involving the same project (HGV South) repeatedly also raise the same issue of VMT, including the same assertion that the VMT calculations are incorrect. They raised this same objection to the Project's VMT analysis in their June 2, 2017, comment letter to the 2018 EIR, arguing that: "[t]he project related vehicle miles traveled (VMT) estimate" lacked consistency and accuracy (Comment O3b-17).

Moreover, EFHGTC raised the issue of VMT in their 2018 petition for a writ of mandate challenging the County's approval of the Project and 2018 EIR. Their 2018 petition states:

The EIR for HGVS failed to make any attempt to quantify either the increase in VMT caused by these projects or transportation- related energy consumption on a cumulative basis. According to calculations prepared by the Town Council, based on evidence in the record, these cumulative projects would cause VMT to increase by 644,739 miles every day, or over 235 million new VMT per year. This is an astonishing impact that must have been, but was not, analyzed as a potentially significant cumulative impact (Petition, page 22).

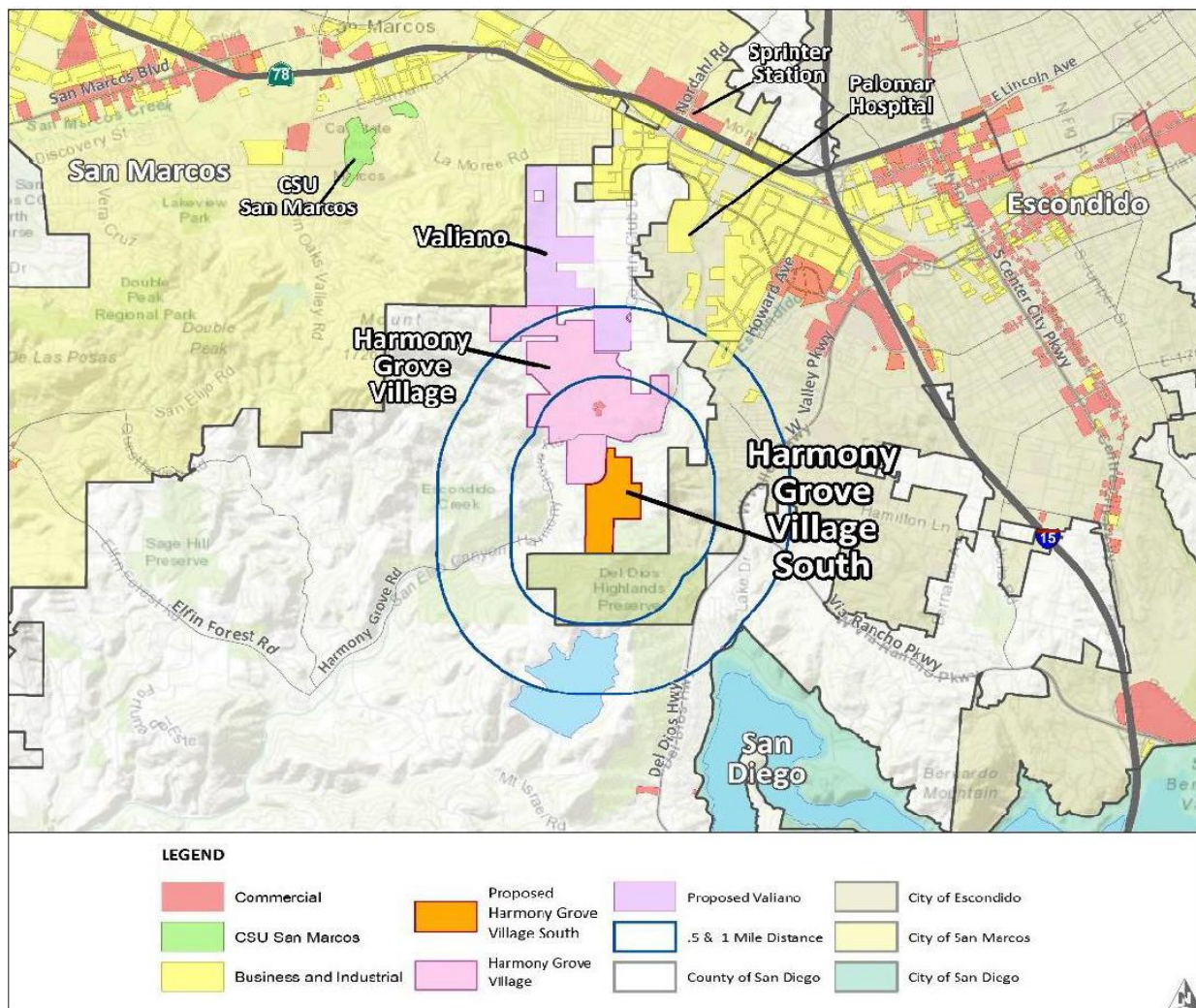
The VMT issue, however, was resolved by the Appellate Court in 2021. The Appellate Court found that the 2018 EIR adequately addressed this issue, concluding that: "[a]ccording to the EIR, SANDAG's average trip length is 7.9 miles, and the average distance for Project trips was calculated to be 7.88 miles." Also, "the analysis of the Project's efforts to reduce vehicle emissions through design, location, and minimization of off-site vehicle trips complied with the County's efforts to reduce sprawl and associated emissions" (Appellate Decision, pages 63-64). See also Global Response: Res Judicata and New Information. The Appellate Court goes on to specifically state:

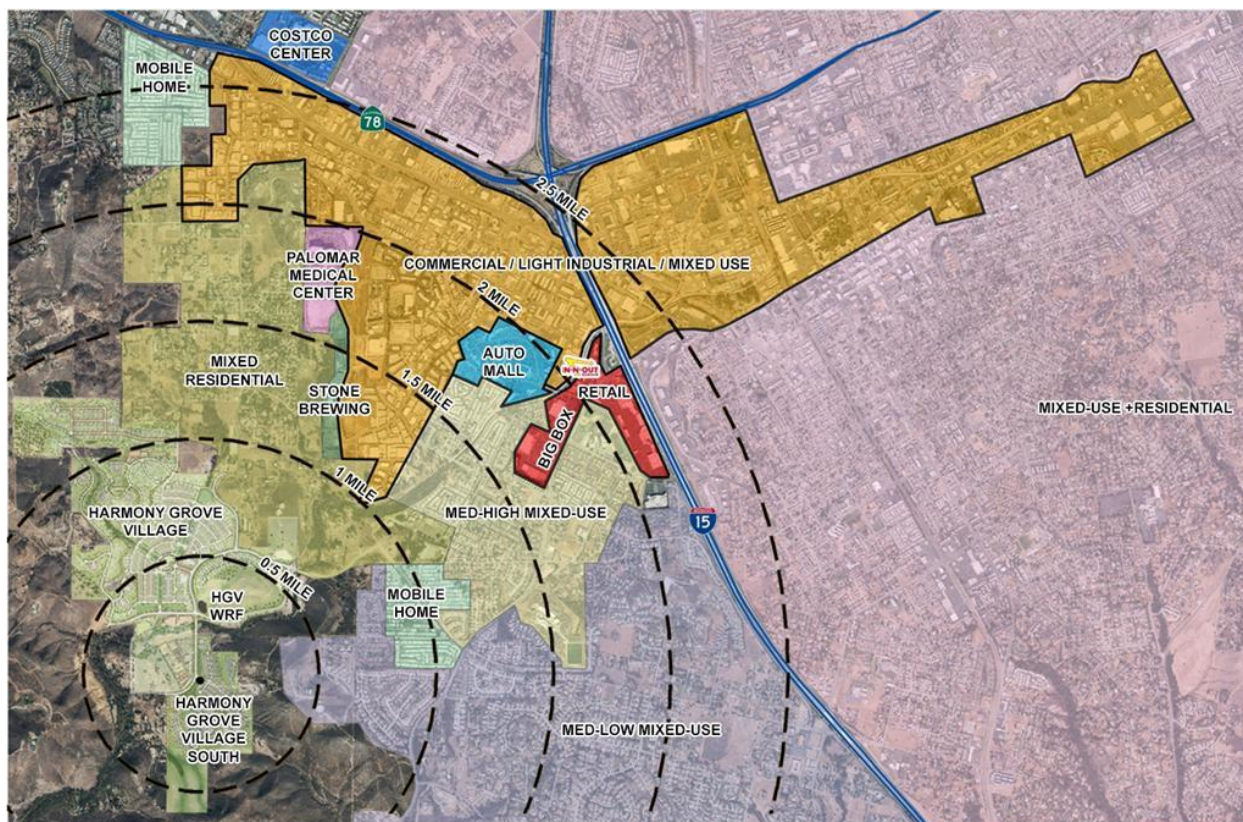
[W]e must conclude the Project is consistent: the EIR evaluated the associated land uses; reflects County's effort to move future development closer to cities, shopping and employment centers; shows the Project is consistent with vehicle mileage

projections; and encourages local walking in keeping with the plan (Appellate Decision, page 66).

With respect to VMT, therefore, this issue was previously litigated and is now precluded from further argument because of res judicata. The commenters had an opportunity to raise this issue, did so, and the Appellate Court rendered its decision on this matter.

Location of the Project. Commenters consistently paint the Project as being located in an isolated area when this is incorrect. Proximity to services is clearly depicted in the FEIR (see the following figure included in the 2018 Staff Report, as well as an excerpt from Figures 2.7-1 and 8.3.6-1, *HGV + HGV South Adjacent Land Uses*, included below).





It is impossible to ignore that:

The Project site is in close proximity to incorporated cities with a population over one million (one-third of the County) which support 600,000 jobs. The Project site is in proximity to two cities: it is south of San Marcos and southwest of Escondido. Within 3 miles to the north is the Nordahl Sprinter station in San Marcos and the Escondido Transit Center is located to the east. The Project is also within 1 - 2.5 miles southwest of a confluence of regional transportation connectors (Interstate 15 and State Route 78) as well as a concentration of urban and mixed land uses that include Palomar Hospital, Stone Brewery, numerous “big box” retail stores with surrounding retail, apartment complexes, multiple mobile home parks, a large-scale (eighteen-brand) automobile mall, and expansive light-industrial/commercial employment center (Escondido Research and Technology Center). California State University San Marcos is also located south of East Barnham Drive and across South Twin Oaks Valley Road from the Kaiser Permanente San Marcos Medical Center (RFEIR, pages 8-153 and -154).

Excess Energy and Delivery to SDG&E. The same commenter also notes disagreement with how electrical energy generation and demand is managed between the Project and the utility provider (SDG&E). The commenter suggests that emissions avoidance disclosed in the 2024 recirculated Subchapter 2.7 exceeds the amount of emissions to be avoided via delivery of excess

energy to the grid, and that associated subsequent mitigation (based on offsetting the remaining Project emissions) would be insufficient. The commentor provides an oversimplified approach.

Comments regarding GHG emissions reduction from on-site solar energy production are also duplicative of comments previously made and responded to in the RFEIR. While no new issues are raised in the August 2025 comment letter, the commenter expresses confusion with the responses provided in the RFEIR. The following briefly summarizes relevant portions of associated responses for the comments previously made and provides additional clarification.

To address questions regarding methodology assuming no solar, the GHG analysis uses a scenario without on-site solar in which electricity would be fully supplied by SDG&E. The utility provider (SDG&E) provides power to the Project using a grid mix consisting of both renewable and non-renewable energy sources dictated by the state's Renewable Portfolio Standard (RPS). The RPS is one of California's key programs for advancing renewable energy. The program sets continuously escalating renewable energy procurement requirements for the state's load-serving entities.¹ The RPS is calculated by taking the total energy produced by renewables (such as solar) divided by the total energy generation, including non-renewables.

As it relates to GHG emissions calculations used in Project analysis, whenever a project is added to the grid interconnection, the total demand for that project must still be accounted for by the utility provider. This ensures that SDG&E would always be able to provide power in kilowatts (kW) to a project regardless of on-site renewable generation that is sized to meet the project's total annual energy consumption in kilowatt hours (kWh). The grid must be able to meet Project power demand when solar sources are not producing energy such as during the evening hours or weather events when the sun is obstructed. The grid must also be able to perform seasonally when energy from solar may be less, such as during the winter months when power produced is less than during the summer. The main point is that on an annual basis, the total PV generation (kWh) will balance with total demand, resulting in zero net energy use annually. As stated in the GHG analysis and additionally discussed below, the Project would also put additional clean energy into the grid.

The added solar energy added by the Project to the grid would be accounted for by SDG&E via an interconnection agreement that is required when the solar panels are installed. The Project's electrical demand combined with its new on-site renewable solar energy would be integrated into SDG&E's portfolio in combination with the utility provider's existing energy portfolio. The result is a revised RPS reflecting both the Project's demand and the additional renewable supply. It should be recognized that a single project by itself would have a minimal effect on the RPS when compared to the thousands of gigawatt hours generated annually by SDG&E. However, cumulatively, when many sources of new construction with new solar are added to the grid, the

¹ The RPS is established under Senate Bill (SB) 1038, SB 1078, SB 1250, SB 107, SB X1-2, SB 350, and SB 1393. These laws set goals for retail sellers of electricity and local publicly owned electric utilities (POUs), collectively referred to as load-serving entities (LSEs), to increase the amount of renewable energy they procure.

RPS will be noticeably increased. In fact, this has added to the RPS increase over the past two decades.

The Project's GHG analysis follows methodologies that are used by the state to quantify the effects of new code requirements on GHG emissions. For instance, when the effects of the 2022 Energy Code were quantified as they relate to solar requirements for new construction, the state showed that the new construction could result in either a decrease or increase in electrical demand, but ultimately all situations showed a decrease in GHG emissions through implementation of the new code requirements.² This demonstrates that the Energy Code requirement that new construction install solar has a real effect on the utilities' electrical supply/demand and cannot simply be removed or assumed to be zero as the commenter suggests. Using the commenter's methodology, the state would keep the electricity energy supply side of the equation the same for the utility with zero increase or decrease for new construction and would show no associated increase or decrease in GHG emissions. This would make it impossible to show the utility providers' progress in reaching the RPS goals set by the state. Therefore, the RFEIR is consistent with the state's methodology showing avoidance of GHG emissions when solar is installed even though new demand is added to the grid through new construction.

Without on-site solar provided by the Project, the Project energy demand would be met entirely by SDG&E's existing portfolio which includes non-renewable resources (fossil fuel), as noted above. However, with the on-site Project solar, each kWh generated by the new solar directly offsets a portion of the electricity demand from the non-renewable (fossil fuel) portion of the grid and allows the excess renewable energy to continue to existing uses, reducing their fossil fuel consumption. This is clearly assumed in GHG avoidance documentation used to estimate GHG reductions by the State of California when implementing the 2022 Energy Code through comparisons to the 2019 Energy Code. As such, in a comparative analysis of the pre- and post- Project SDG&E portfolio, the amount of non-renewables in the grid mix would be reduced since renewables do not offset renewables (i.e., renewables simply are added to the grid, while access to non-renewable sources will be reduced or ultimately eliminated as the kWh become redundant as required by the state's RPS mandates). As a result, the avoided GHG emissions from solar exceed the average grid emissions intensity, producing greater net GHG benefit than would otherwise be achieved through RPS alone. Therefore, when renewables such as solar are added to the grid, the achieved RPS for the utility increases because renewables only eliminate use of non-renewables.

As noted above, each kWh of on-site solar generated with the Project reduces demand for non-renewable generation by SDG&E. This approach is not unique to the Project; it is also the same methodology used in preparing Climate Action Plans (CAPs). CAPs begin with a GHG emissions inventory and then project future GHG emissions. After this, CAPs identify reduction strategies to meet state targets. Installation of solar is a typical reduction strategy seen in CAPs.

² Impact Analysis: 2022 Update to the California Energy Code. <https://www.energy.ca.gov/publications/2023/impact-analysis-2022-update-california-energy-code>.

When on-site solar energy generation exceeds a project's demand, the surplus electricity (i.e., energy above that needed to serve the project) would be fed back to SDG&E. Therefore, the project reduces GHG emissions from non-renewable generation in two ways: (1) by meeting its own demand with renewable energy, and (2) by supplying excess renewable energy to the grid for other customers. While solar output varies with weather and time of day, the energy accounting within the GHG analysis uses annualized GHG emissions. Each kWh generated by the Project's solar system directly displaces a kWh that would otherwise have been produced by non-renewable sources, making the GHG reduction credit both appropriate and conservative.

Crediting reduced GHG emissions to solar installation can be understood in the same way efficiency improvements are credited for modern LED lightbulbs in building codes. When an LED bulb is purchased, the labeling now lists what the equivalent brightness is as it compares to an equivalent incandescent bulb. The comparison is in watts (watts is not a measurement of luminosity but is recognized as such to have a certain brightness). An LED lightbulb with a 60-watt equivalent means the LED bulb (which is typically 5 to 6 watts when lit) appears as bright as an incandescent bulb that is 60 watts when illuminated. Therefore, when on, it avoids approximately 55 watts of power. After years of use, regulations began to eliminate the manufacturing of incandescent bulbs, forcing users to transition to more efficient technologies, which has also been reflected in energy codes of the past. These bulbs avoided and continue to avoid energy at a rate tied to the quantity of lights. Solar is no different in that for every kWh generated by a solar panel, an equivalent kWh of energy is not required to be produced by the grid operator. Since renewables cannot offset renewables (i.e., solar panels do not replace or turn off existing panels, they reduce the non-renewables needed by the utility) full non-renewable avoidance is therefore assumed for the Project GHG analysis.

When the California Emissions Estimator Model (CalEEMod) software was first developed, SDG&E did not provide specific energy emissions intensity factors to the model developers. As a result, an assumed intensity of approximately 720 pounds of CO₂ per megawatt-hour (lb/MWh) was applied based on surrounding regional utilities. That default intensity included some renewable contribution. Limited documentation indicated that about 10.5 percent of the electricity supply was renewable, which translated to a non-renewable intensity of 805.02 lb/MWh. This value was carried forward in CalEEMod from 2011 through about 2020 until more accurate, utility-specific intensity factors became available. The Project's 2018 GHG analysis relied on the 805.02 lb/MWh factor and, to maintain consistency and conservatism, the 2024 analysis also applied this same conservative intensity factor.

It is conservative because according to the U.S. Energy Information Administration (EIA), natural gas-powered electrical generation (which generally is considered one of the lowest GHG producing nonrenewable sources) is 970 lb/MWh³, as reflected in the RFEIR. The GHG Analysis

³ U.S. Energy Information Administration. How much carbon dioxide is produced per kilowatt hour of U.S. electricity generation? (<https://www.eia.gov/tools/faqs/faq.php?id=74&t=11>)

conservatively used an emissions factor of 805.02 lb/MWh, which was derived using CalEEMod's historic intensity described above. Thus, each kWh of solar energy generated by Project solar panels effectively avoids this amount of carbon dioxide emissions and reduces reliance on energy otherwise derived from non-renewable sources. In other words, while it could be defensibly argued that each kWh of renewable generation offsets 970 lb/MWh of GHG emissions, the Project GHG analysis conservatively used 805.02 lb/MWh. If the EIA source of 970 lb/MWh had been used, an additional 17 percent (or roughly 350 to 360 metric tons carbon dioxide equivalent [MT CO₂e]) of GHG emissions avoidance could have been taken. The Project analysis is more conservative in considering the lower emissions avoidance factor derived from CalEEMod as discussed above.

This conservative approach is carried through into the Project's calculation of avoided emissions from solar generation. Based on the emissions factor for non-renewable energy sources from SDG&E described in the 2024 *Global Climate Change Report*, the generation of 6,300 megawatt hours (MWh) of renewable energy from on-site solar panels would avoid approximately 2,310 MT CO₂e of GHG emissions. There is no change to the GHG emissions calculations necessitated by these comments (i.e., commenter tables accompanying the comment(s) do not question or disagree with the basic Project electrical generation numbers or exceedance of energy demand required by the Project). Therefore, mitigation measure M-GHG-1 remains adequate to reduce the Project GHG emissions impact below a level of significance based on the net-zero threshold established in the EIR.

GHG Significance Threshold. The comment also incorrectly states that (despite the Project resulting in no net increase in emissions over existing conditions, and being, therefore carbon neutral by design), the County used an inappropriate significance threshold for assessment of impacts. The commenter points to two attachments provided (and answered) as part of the comments received on the 2024 GHG recirculation.

The threshold of significance considered in the FEIR was established by the County in accordance with CEQA Guidelines Section 15064.4, and the analysis appropriately relies upon a threshold based on the exercise of careful judgement and believed to be appropriate in the context of this particular Project: net zero GHG emissions. The CAP was not relied upon for Project GHG analyses. Reliance upon net zero as an end goal provides a far more conservative emissions analysis than would compliance with the CAP, which would have allowed for some emissions that would not be considered significant and therefore would not require mitigation. As a result, and as described above regarding current GHG emission targets and plans, the Project having net zero GHG emissions does not conflict with current state or local goals and plans for GHG reduction. No change to the GHG significance threshold is required or appropriate.

The CAP states that a project "would normally have a cumulatively considerable contribution to climate change impacts if it is found to be inconsistent with the County's Climate Action Plan." Consistency with the CAP is based on (1) consistency with growth projections and land use assumptions and (2) consistency with the CAP Checklist as stated in the County Guidelines for

Determining Significance for Climate Change (see Appendix 8 of the 2024 CAP). Projects with GPAs cannot be streamlined through the CAP via reliance on the Checklist. Conclusions must be accomplished through a project-specific analysis that determines project-specific GHG emission impacts. That is precisely what has occurred here – a project-specific analysis taking into account emissions and their offsets through project design features (PDFs) and mitigation that were fully disclosed. However, because the Project results in net-zero emissions (i.e., basically an extension of existing conditions, or conditions similar to if the Project was not built at all), there is no conflict with the now-adopted CAP.

Under the CAP, the approved threshold is based on the General Plan allowed land use. The specific Project site would allow up to 220 homes per zoning and would be required to include CAP measures to comply. Under the 2024 CAP, there is no specific methodology identified for attaining CAP consistency for GPAs. The commenter should recognize that qualitatively 220 homes (or, in fact, any number of General Plan consistent homes) even with all the CAP measures incorporated, (e.g., CAP-required levels of EV charging infrastructure, electric appliance installation, solar panel installation, etc.) would not achieve or be required to have net zero emissions. The Project would have fewer emissions than would be assumed under a General Plan project consistent with the CAP.

In a related statement, the commenter claims that the EIR obscures the difference between existing conditions and existing zoning. This comment is only meant to confuse the reader. For context, if the Project were evaluated strictly under a General Plan consistency and CAP Checklist threshold following construction, operational annual CO₂e emissions would occur from area, energy, mobile, solid waste, and water sources. Emissions from a General Plan-consistent single-family development of 220 residences on the Project site would not be required to meet net zero standards. Since the Project has committed to achieving *net zero* GHG emissions, these requirements are not only met but exceeded, demonstrating compliance with the CAP and the CEQA threshold for GHG emissions used in the RFEIR.

The HGV South Project analyses use a net zero benchmark in the opening year (2030), which as stated above, is more conservative than the CAP's threshold associated with approved General Plan land use designations. Statements that the Project “must now correctly analyze” or “reduce the Projects impacts to a level of insignificance” are misleading and incorrectly classify CEQA significance since the net-zero threshold exceeds CAP requirements in the County and state GHG emission reduction requirements calling for net neutral emissions by 2045. As the commenter states, the state's 2045 goal is an 85 percent reduction below 1990 levels. This is not equivalent to net zero since 1990 emissions were well above zero. The GHG Analysis and Project GHG emission reductions go well beyond the County and state goals of achieving net neutrality in 2045 *by achieving net-zero in the year 2030*.

As noted above, the commenter claims that the EIR obscures the difference between existing conditions and existing zoning. This comment is only meant to mislead the reader. *The Project*

GHG analyses described above claim no emissions reduction (or other calculation of net change) based on existing zoning. The mention of existing zoning is related to CAP assumptions for GHG emissions that could be generated at the Project site under existing zoning. This information was provided for clarity relative to CAP assumptions but ***was not used*** to credit the Project with GHG emissions reduction. **It does not affect the ultimately net-zero emissions of the Project that inform the determination of significance.**

The RFEIR is highly conservative and is a model for future projects in achieving a net zero emission goal at the onset of the Project. No change is proposed to the above 2030 analysis or the less than significant CEQA conclusions based on attaining net zero emissions in 2030. It is noted, however, that cumulatively through 2045 the state seeks to attain net neutrality (defined as 85 percent below 1990 levels). The HGV South Project would be one of only a few projects with the gold standard of net zero Project emissions in 2030 and continuing to lessen past 2030 as better technologies are implemented (i.e., as reduced vehicle emissions, more efficient lighting/appliances become available).

Surety of Solar Panel Installation. One letter questioned how the County could require “follow-through” on solar panel installation requirements identified in Project mitigation measure M-GHG-1 when staff could not force HGV to build approved project elements. Completion of certain project elements of a specific plan, such as construction of retail spaces or an equestrian center, is reliant on market demand and economic viability, versus mitigation measures that have clear timing and enforcement triggers monitored by the County as lead agency.

For HGV South, compliance with M-GHG-1 must occur before the first grading permit for the Project can be issued by the County. The solar panels, generating a total of 1,720 kW, are required to be installed on an existing building(s) that does not currently utilize solar energy, is not required to install solar, and is located within the County of San Diego. The Applicant is required to provide a report to the County that proves compliance with the various requirements of M-GHG-1, again before issuance of the first grading permit for the Project can occur.

Moreover, mitigation measure M-GHG-1 is replete with redundant measures and multiple safeguards to ensure that mitigation will be enforced. First, the homeowners’ association (HOA) is required to:

- Monitor the solar system using the module-level monitoring application
- If any solar equipment is found to need repair or replacement, the HOA is responsible for such work being completed as needed in order to maintain the equivalent amount of solar power generated by such panels
- If the repair work is not paid for by the insurance carrier, the HOA will be responsible for ensuring that the repair work is completed
- Annual maintenance and monitoring program will be conducted

- During maintenance, the HOA is responsible for replacing or repairing any of the solar panels as needed in order to maintain the equivalent amount of solar power generated by such panels
- A set aside fund held by the HOA and initially funded by the Applicant will be adjusted each year by the HOA, based on the annual indexed increases in construction costs and expenses consistent with the California Construction Cost Index or similar construction industry standard index, through a reserve study prepared by a qualified consultant, hired by the HOA. The set aside funds may be used to enforce the provisions of the mitigation measure, if needed

The owner of the off-site building will also be required to maintain a policy of insurance to cover the repair or replacement of the solar system. This is fitting, because it is the property owner who benefits from the presence of the solar panels on that owner's property (e.g., lowered electrical bills, greater energy dependability) and the system is being installed at no cost to that owner. The property owner's insurance policy will also name the HOA and County as additional insureds so that payment is always ensured. Additionally, a Covenant recorded against the off-site property shall require the property owner to maintain and/or replace such panels as necessary if the HOA/County does not complete the repair work. The multiple insurance policies and obligations spelled out in the mitigation measure ensure that the maintenance will occur (be enforced). Finally, the County is authorized to enforce the terms and conditions of the mitigation measure and may use the set aside fund to do so.

The issue of mitigation measure enforcement was answered. As stated on page RTC-ReI21-5:

The mitigation measure approved by the County ensures that the individuals who benefit from the Project (residents, off-site property owner, and ultimately the County) are responsible for mitigation following initial set up and funding by the Project Applicant. "Follow through" is the responsibility of the County should the HOA falter. This is normal and appropriate as the County is the lead agency under CEQA responsible for enforcement of mitigation measures.

2. HOUSING

County Delivery of Housing. One letter notes that based on the 2024 Housing Report, the County is ahead of schedule to meet its RHNA allocation for 2029, and that the Project is not needed by the County in meeting its long-term regional need for housing based on the 2024 County Housing Report. Similar comments were provided by the EFHGTC in the July 16, 2025, letter written on their behalf to the Planning Commission. The EFHGTC contends that the Project need not be approved, because the County "no longer has a housing shortage." They contend that "based on the 2024 County Housing Report, the County is well ahead of its RHNA goals with respect to Moderate and Above Moderate affordability categories." The following is excerpted from a letter

provided to the Planning Commission, dated August 18, 2025, in response to these statements (emphasis added)⁴.

However, according to the California Housing Partnership, the County's housing situation is a mixed bag, with some progress being made, but with persistent challenges in affordability and homelessness. They conclude that although the County is on track to meet its overall housing goals, providing housing for its residents remains a significant challenge due to rising housing costs (San Diego County 2025 Affordable Housing Needs Report, May 2025. available at: <https://chpc.net/housingneeds>).

This lack of housing contributes to scarcity and high housing prices that put a strain on the general welfare of all County residents. The Nonprofit Institute of the School of Leadership and Education Sciences paints an even more dire picture:

Housing in 2024 received a thumbs-down rating, primarily attributed to the exorbitant costs associated with both renting and purchasing homes. Only 1 in 10 residents in San Diego County can afford a median-priced home, painting a stark reality of the housing crisis. The prices of median-rate housing and fair market rent have continued to climb in the past 10 years, heightening concerns about the accessibility and affordability of housing for San Diegans. The housing crisis continues to persist in our region and is a pressing emergency. (available at: "https://www.sandiego.edu/soles/centersand-institutes/nonprofit-institute/signatureprograms/dashboard/housing.php).

Nor is the Project's affordable housing the sole reason for the County to approve the Project. The County has identified the following benefits: overall economic benefits (tax revenues); employment opportunities (both increased options and "close-in employment relationship"); social benefits (related to support of existing HGV); provision of a diverse mix (including affordable) of housing; promotion of walking and bicycling; access to employment, education, recreation, entertainment, shopping, and services; social health amenities; full consistency with the County General Plan relative to proximity to a village and amenities, and proximity to urban medical, shopping, educational, and job opportunities; recreational benefits (dedication of public park uses, increased existing and planned regional trail connectivity); biological benefits and open space (with over 31 percent of the site being in a biological open space easement adjacent to an abutting preserve, and enhancement to the biological environment of Escondido Creek); enhanced safety (improvement of access to the south of Escondido Creek in emergency events during both wildfire and flood events, based on a widened roadway, additional travel lane, and a bridge), as well as increased emergency service fees; and addition of renewable energy resources into the SDG&E

⁴ Please see letter sent to the Planning Commission and dated August 18, 2025, attached as Exhibit 2 to this letter and incorporated herein.

grid. These benefits accrue regardless of the County's provision of housing elsewhere and provide a diverse suite of reasons why the Project brings value.

Assertions that meeting a minimum mandatory number of housing units satisfies the shortfall in available housing within the County – to say nothing of the shortfall in affordable and middle market housing – is contrary to the statements of the housing professionals noted above as well as the common knowledge of San Diego County residents searching for dwellings in general and cost-effective options in particular. Meeting a RHNA commitment does not eliminate the value of providing additional housing, especially when partnered with the associated benefits listed in the paragraph above.

Site Development with Fewer Units. One commenter conflates the Board's discretion to approve or deny the Project with the role of res judicata in situations such as this, where there has been previous litigation over the Project. To be clear, the County has consistently explained that the Board has discretion to approve or deny the Project. As stated in the RFEIR, Section 8.7.3.1, page 8-153:

“The County agrees that *the Board has the discretion to approve or deny the Project.*”

Moreover, the Staff Report to the Planning Commission (July 22, 2025) states:

“Since the previous Board approvals have been rescinded, *the Planning Commission has discretion to recommend approval or denial of the project*” (Staff Report, page 2).

Once the Board has made a decision to approve or deny the Project, that decision is afforded deference by the courts and carries a strong presumption of regularity and will not be overturned unless the agency has abused its discretion, or if findings do not support the determination or are not supported by substantial evidence (RFEIR, page 8-153). Indeed, the Board is free to deny the Project, so long as it is not arbitrary, capricious, or without evidential support. (No Oil, Inc. v. City of Los Angeles, 196 Cal.App.3d at 243.)

However, *if* the Board were to subsequently approve the Project, finding it consistent *once again* with the General and Community Plans, its decision would be governed by res judicata *in that* the commenter could not raise *the same issues* related to consistency that the courts have already ruled upon in previous litigation. (*Atwell v. City of Rohnert Park* [2018] 27 Cal.App.5th 692.) In spite of the commenter's attempt to confuse, the *Atwell v. City of Rohnert Park* decision is on point, res judicata applies to the adoption of new findings by the legislative body when a project remains unchanged, there is no change in the material facts, and the same claims are being raised as in the original lawsuit. (*Atwell v. City of Rohnert Park* (2018) 27 Cal.App.5th 692, 701, and 702.)

The RFEIR is not using res judicata as a sword and a shield, rather this commenter would like nothing more than to continue to relitigate the same issues over and over again, hoping for a

different outcome. Yet res judicata prevents a continuous cycle of litigation over the same issues preventing inconsistent rulings, confusing judgments, judicial inefficiency, and unfairness to all involved in such litigation.

The letter also states that Project documents have not “meaningfully engage[d]” or considered that the Project site is already zoned for up to 220 homes on 0.5-acre lots (prior to addressing issues of environmental sensitivity/steep slopes). However, this is simply not true. The potential that a project could occur with a smaller number of units was directly addressed in the 2018 (and 2025) FEIR in both of the General Plan Consistent alternatives (General Plan Consistent with Septic Alternative [49 single-family residences; SFR]; and General Plan Consistent with Sewer Alternative [119 SFR]). These alternatives are described and compared with Proposed Project benefits and impacts on pages 4-9 through 4-21, and summarized on pages S-12 and 13, of the FEIR. Both were ultimately rejected as they would not satisfy Project objectives to the same or greater level than the Proposed Project. Note that a third alternative was also evaluated during responses to comments received prior to 2018 approval – the EFHGTC “Council Alternative.” This additional alternative suggested construction of 119 units and associated utility and recreational uses. It was discussed and rejected in the 2018 FEIR on pages RTC-RO3-64 through -70. None of those alternatives would require a GPA relative to residential density.

The goal of CEQA Guidelines Section 15126.6 is to demonstrate the ability to avoid or minimize significant impacts while feasibly attaining most of the objectives. The nature of alternatives addressed in the FEIR was a specific element of Project litigation. The trial court⁵ specifically reviewed the alternatives reviewed, as well as the alternative proposed by EFHGTC prior to 2018 FEIR certification and found that there was no improper rejection of smaller development alternatives. This issue has been raised, litigated, and the County’s document was found adequate under CEQA. The issue is closed.

3. FIRE AND EVACUATION

The great majority of the comments both written and presented at Planning Commission concerned fire safety and were focused on evacuation concerns. However, with reference to fire and evacuation issues, please note the Court of Appeal’s overall conclusion:

“We conclude the EIR contains a CEQA-compliant discussion of the potential wildland fire risks or exacerbation caused by the Project and the fire risks in the Project’s vicinity” (Appellate Decision, page 3).

Additional discussion for clarification is provided below but has been thoroughly discussed and analyzed by the County in the Responses to Comments for the recirculated Subchapter 2.7 even though such topics were not relevant to that recirculation.

⁵ Elfin Forest Harmony Grove Town Council vs County of San Diego, Case No: 37-2018-00042927-CU-TT-CTL.

Past Fires. A number of commenters voiced experience with area fires (e.g., 1996 Harmony Grove, Cedar, Cocos, or “multiple” fires/evacuations; or noted Palisades Fire gridlock). As discussed throughout responses to comments provided to 2024 and 2025 commenters, even direct experience with fires and/or evacuations is not necessarily relevant to a future fire. Fire events are dependent upon specifics that will unfold only during that event. Thus, events that have occurred in different habitats, different topography, and with different levels of development, are not material. For example, during the Camp Fire, residents of Paradise, located within a conifer forest, had to travel nearly 10 miles through forested landscapes to an urbanized area out of harm's way. HGV South is within a grassland and low shrub landscape with less than a mile to urbanized landscapes. Paradise did not include fire-adapted master planned communities, but rather scattered, mostly older structures. The fire environments are drastically different, as are the fire protection features that *were not* in place in Paradise but *would be* in the Project.

The other example often cited by the commenters is the 2014 Cocos Fire, arguing that vehicle congestion during this evacuation event indicated that the evacuation was unsuccessful. However, Captain Brown in 2018 disagreed with this conclusion, testifying that the Cocos Fire evacuation was in fact a success because there was no loss of life during this fast-moving wildfire. (Global Response: 2024 Fire / Evacuation. Section 8.7.4.1, page 8-163.) Moreover, the conditions that surrounded the Cocos Fire evacuation have since improved but were not considered in the comments. For example, the Cocos evacuation process occurred before completion of all roadway improvements by HGV, which included improving segments of Country Club Drive (CCD) and providing a new road to the east (HGV Parkway, which provides an enhanced route east and out of the valley through an HGV-built bridge connection over Escondido Creek into Escondido). These improvements were required to be completed as part of the HGV project and were described in the 2018 FEIR.

It should also be noted that there is a fire station located off HGV Parkway that was built by HGV, road improvements as additionally discussed below, and fire hardening of those roads with fuel modification zones (FMZs) and ongoing maintenance. This was directly addressed in Global Response: 2024 Fire / Evacuation. No additional response is necessary.

Safety Code Updates. Letters noted belief that the County had been remiss in approving the Project in 2018 and would be more so now. Concern was stated regarding belief that the devastating Camp Fire had resulted in stricter codes that the County and fire agencies are ignoring in the interest of approving the Project. These commenters frequently stated that the codes and regulations current during Fire Protection Plan (FPP) and Evacuation Plan authorship had been updated, but that the Project was being allowed to ignore them and is relying on outdated requirements (often cited as restricted to 2015). This is a substantial and important misunderstanding. **To be clear, the Project is NOT relying on outdated requirements.** The Project incorporates Code elements that meet or exceed the current regulations and is consistent with state planning documents.

Building codes addressing fire and evacuation safety were strengthened starting in 2008. As discussed in the FPP and in responses to comments in both 2018 and currently, the County had, and has, some of the strictest requirements for new build required anywhere in the United States.

Revised, updated, and/or new documents relevant to Project analyses were reviewed to ensure that the Project met new standards proposed since 2018 approval. Analysis was provided in both global and individual responses to comments for the following important updates:

- 2014 v. 2023 Code Requirements
- 2010 v. 2024 Secondary Access Modification Requirements
- 2022 California Attorney General Guidelines
- 2022 Statewide Assessment

The summary matrix provided below allows for quick review of some of the more critical current code elements and Project consistency with them. For ease of reference, commenters are additionally referred to focused compiled discussions and associated matrices in Global Responses: Res Judicata and New Information, as well as 2024 Fire / Evacuation. As shown in the matrix below, relative to important issues such as CBC Chapter 7A, hydrant spacing (and associated numbers of hydrants), water pressure, absence of gates, provision of adequate emergency vehicle turn around spacing and removal of parking from potential travel lanes (and more), and provision of enhanced FMZs, again, the **Project meets or exceeds all current Code requirements.**

The strict compliance with the Code requirements means that the Project is not “loosening” requirements under the codes, or “ignoring rules, regulations, and codes.” Rather, the emphatic conclusion is that **the Project complies with today’s Code requirements.**

Item	2014 Code	2023 Code	Current Code Compliance	HGV South Requirement
Fire Flow	2,500 gpm	2,500 to 3,000 gpm	Exceeds	2 x 2,500 dual system = 5,000 gpm
Hydrants	350 feet spacing	Same	Exceeds	300 feet spacing
Road Width	24 foot spacing	Same	Exceeds	24 to 36 feet (one extra travel lane)
Turning Radii	28 feet inside edge	Same	Meets	28 feet inside edge
Grade	Max 20%	Same	Meets	Under 20%
CBC Chapter 7A	Apply all construction ignition-resistant requirements	Same	Meets	Applies stringent Chapter 7A
Hose Pull	150 feet	Same	Meets	150 feet

Item	2014 Code	2023 Code	Current Code Compliance	HGV South Requirement
Turnarounds	Required for lanes over 150 feet	Same	Will Meet	Final project layout/interior streets will be processed through Site Plan Review. RSFFPD will review plans for Fire Code conformance
FMZs	100 feet	Same	Exceeds	FMZs include 110 to 200 feet
Response Time	5 minutes	Same	Exceeds	Less than 3 minutes
Dead End Road Length	800 feet (modifications allowed)	Same	Meets	Findings made and affirmed by the Fire Agency Having Jurisdiction (FAHJ)
Parking	52 spaces	Same	Exceeds	7+ times (343)
Gates	Gates allowed	Same	Meets	No gates proposed

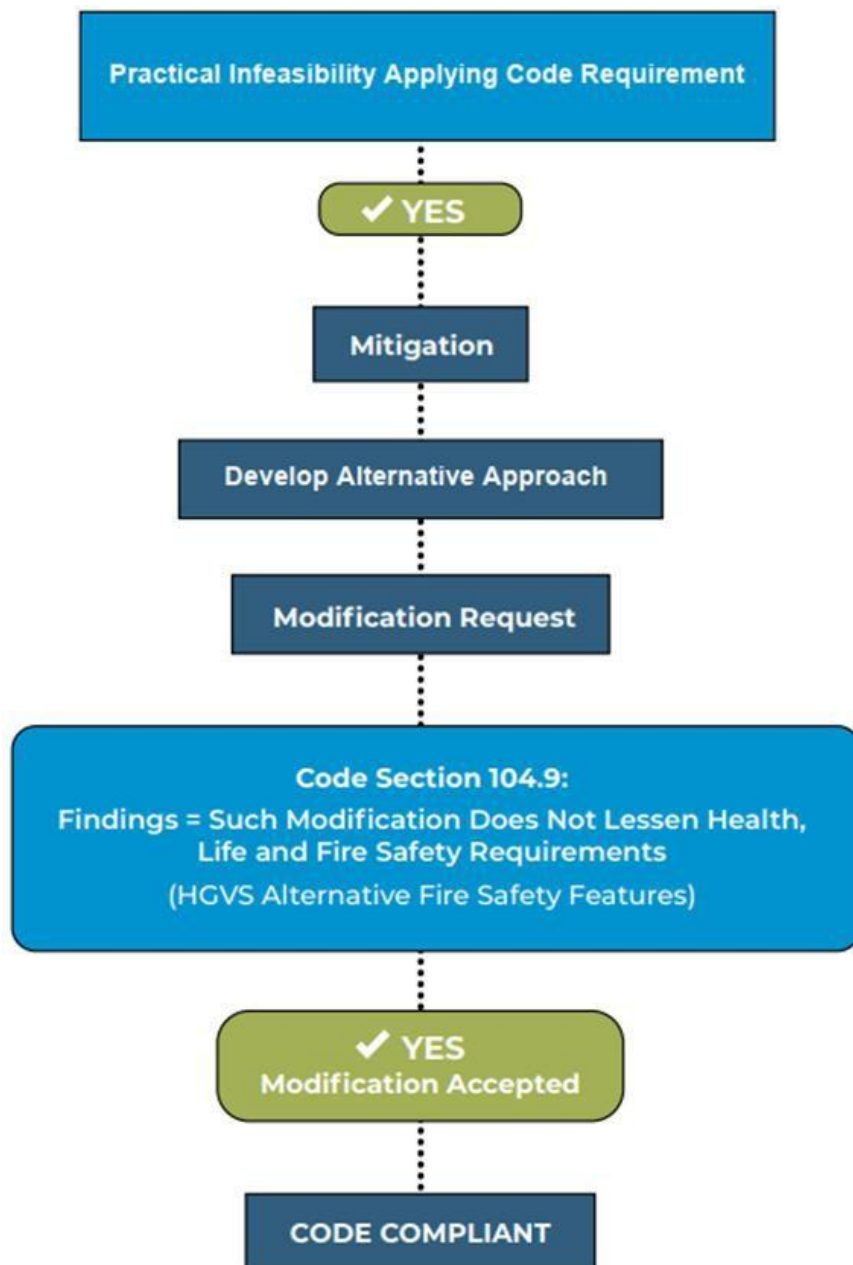
Secondary Access Determined Impracticable. Commenters have consistently stated that the Project (and the Appellate Court) relied on connection to Johnston Road for secondary access purposes but the road is currently impassable. These comments conflate the minor role connection to Johnston Road plays as one component of the alternative compliance measures that were applied to the Project relative to *alternative compliance* as opposed to a designated secondary access. To be clear, connection to Johnston Road was not designated as a secondary access route, nor did the Project rely upon connection to Johnston Road for secondary access. The Court of Appeal clearly understood this point:

“The Project residents *could not use the road [Johnston Road] for secondary access*, but “the roadway would be available for use to connect to Johns[t]on Road (a public roadway to the east)...”

In fact, the oft-repeated request for such secondary access is a thinly veiled request for outright Project denial. **It is well-documented that such access was thoroughly evaluated and found to be infeasible.** Review showed that it would be impossible to build a road wide and flat enough to meet County roadway standards. In addition, the noted opposition from property owners with land crossed by that access by that dirt road further complicated the issue. Legal access rights from those property owners were not available. This appears to still be the case. A letter was filed by Coast Law Group (see Letter ReO2 in 2025 FEIR Volume III) threatening the County with lawsuit even if evacuees are directed to use the route by emergency professionals, much less any (not proposed) Project-related improvements. (This is, by the way, incorrect as the California Regulatory Code allows for evacuation over private roads without private owner permission in case of emergency.) Therefore, the route was identified as infeasible. ***If the Board makes approval***

dependent upon such provision, the infeasibility of providing it will render the approval invalid, and the many benefits of the Project will not be realized by the County and neighboring residents.

As explained in the Project's FPP (Dudek 2018), the Project requested a modification from the dead-end road length requirements of the County's Consolidated Fire Code (Fire Code Section 503.1.3). (The typical mitigation for exceeding the dead-end road length is to provide secondary access, however, if secondary access is found impracticable (infeasible), a project can meet the intent of the Fire Code by proposing alternative compliance measures.) The Code-specified path for Code modification is schematically depicted below.



Eight separate potential secondary access routes were evaluated, including a dirt road that led to Johnston Road to the east (the dirt road connection to Johnston Road commonly referred to as “Johnston Road” by commenters). As detailed in the FPP (pages 20, 33-35), and FPP Appendix C, all of the potential routes had a number of constraints due to topographic and ownership constraints, including connection to Johnston Road, and were therefore determined to be impracticable (infeasible). Because this was the case for all routes, the Project proposed meeting the intent of the Fire Code relative to dead-end road length through a combination of measures that would provide an equivalent system of fire safety. Nothing has changed regarding the abutting topography or ownership constraints in the intervening years. Therefore, nothing has changed relative to the assessment of formal secondary access as being impracticable.

The FPP describes in detail the measures meeting or exceeding Code that provide a system of fire safety to address the requested dead end road length modification and the inability to provide secondary access (FPP pages 35-52). The proposed list of measures is shown below.



Community Preparation and Hardening

- Site-wide and extended FMZs (Fuel Modification Zones)
- Ember-resistant vents
- Landscape plan review and annual inspections
- Restricted landscaping next to buildings
- Trash enclosures 10 feet from buildings
- Fire Flow exceeding standard
- Fire hydrants exceeding code
- Exceed Chapter 7A building hardening
- Annual fire operation contribution
- Automatic and Mutual Aid Agreements
- Fast response from existing fire station



Increased Evacuation Capacity

- Third Travel Lane
- New Bridge Crossing
- Opticom signaled intersection
- Three Separate Egress Points
- No gates or speed bumps
- Potential Private Dirt Road Connection
- Parking Management Plan
- 7x parking spaces



Community/Infrastructure/Planning

- Community building – refuge site
- Shelter in place capability
- Continuity with urban areas
- Road maintenance entity
- Signage/Way-Finding Plan
- Emergency preparedness plan
- Evac coordination with OES

As shown, the alternative compliance measures included a range of items, with one of the most significant being provision of an additional travel lane for all roads on site that are within 800 feet of Project structures (see FPP heading “Access and Parking”), to requiring contingency planning if evacuation from the site would be considered unsafe (see FPP heading “Emergency and Evacuation Planning”).

The oft-referenced connection to Johnston Road was listed as one of 6 items under the alternative compliance measure labeled as “Access and Roads” in the Project’s FPP among the total of 26 measures. The FPP described this dirt road as traversing the HGV South site connecting to County Club Drive (CCD) on the west and Johnston Road to the east. Three to four off-site residences currently have access rights across the Project site but HGV South does not have access rights to the off-site portion of the road that would allow access to the public roadway to the east. The FPP explicitly stated that the road did not meet the Fire Code, and varied in width, surface, and grade. Thus it was **not** recognized as a secondary access route (FPP, page 40). But because the dirt road connected with Johnston Road to the east and was at that time accessible by vehicles (and continues to have a substantial portion of the road still accessible, as substantiated by the three to four off-site residences that used and continue to use at least portions of the dirt road) it could potentially be available for use in an emergency situation should CCD not be available. Therefore, it was listed as one of many alternative compliance measures shown above.

The suite of compliance measures was reviewed and approved by the emergency and fire professionals responsible for responding to emergencies. The RSFFPD fire chief has gone on record as finding that the intent of the code has been met and would not lessen health, life, and fire safety requirements. Representatives of RSFFPD, the San Diego County Sheriff’s Department (SDCSD), and CAL Fire have variously confirmed these findings at Project hearings in both 2018 and 2025. The information was summarized in FEIR Section 3.1.3, *Hazards and Hazardous Materials*, reiterated in 2018 FEIR Volume II in Global Responses: Adequacy of Emergency Evacuation and Access, as well as in FEIR Volume III Global Responses: Res Judicata and New Information, and 2024 Fire / Evacuation.

The matrix below provides a simplified version of the discussion detailed on RFEIR pages 8-123 through -125, and again on pages 8-168 through -187. The Project analyses met not only the five criteria identified in the 2010 Code and the 2024 Code, but also the additional two administrative clarifications added to the 2024 Code.

Fire Code 2010 Guidelines: 5.7.1 Required Findings for Alternatives to Standards	Yes?	Fire Code 2024 Guidelines: 5.10.3 Required Findings for Alternatives to Standards
Code authorizes fire code official to approve modification with Findings.	<input checked="" type="checkbox"/>	Same, Done
1. Special individual reasons make strict letter of the code impracticable	<input checked="" type="checkbox"/>	Same, Done “material facts support need for modification” = “individual reasons”
2. Modification complies with intent and purpose of code	<input checked="" type="checkbox"/>	Same, Done “and provides same practical effect”
3. Modification does not lessen health, life, and fire safety standards	<input checked="" type="checkbox"/>	Same, Done
4. Documentation of modification must appear in FPP and in FAHJ files	<input checked="" type="checkbox"/>	Same, Done
5. Map shows proposed location of the mitigation/exception measures	<input checked="" type="checkbox"/>	Same, Done “if applicable”
	<input checked="" type="checkbox"/>	6. Identify specific section(s) for modification Done 2018 FPP identified Section 503.1.3, Dead End Road Lengths
	<input checked="" type="checkbox"/>	7. Details of the modification or mitigating measure proposed Done 2018 FPP “Findings and Mitigation Conclusion.” 26 measures combine to provide highly defensible community, offer equivalent egress, and provide contingency planning if site evacuation is deemed unsafe (pp. 36-42)

The conclusion of the fire professionals was cited by the Court of Appeal on pages 48 and 49 of the Appellate Decision:

Both the San Marcos Station Commander and a CAL FIRE Unit Chief testified before the Board and agreed the Project’s evacuation plan was sufficient, the CAL FIRE Unit Chief describing the addition of a third lane as a “game changer.”

And in an associated footnote, the Court cites:

The San Marcos Station Commander said: “I reviewed this particular plan and the other ones for what infrastructure they have, the ability to move them, how many people there are, and I’m confident we can evacuate these people given the situation. Now, people want to talk about what particular road we’ll use, how will this happen, what about the existing people. I first have to see the situation to tell

*you what I would do, but I've done it before. My agency has done it many times, and I think we've gotten very good in this county of how to evacuate people. I like the three-lane bridge. Choke points bridges [sic] are generally a problem when moving people. Three lanes give you alternatives... **Having three [lanes] is a route game changer as far as two lanes out and one still to get in.** And then if there's a problem in the roadway—a medical problem—something always happens—it still doesn't completely tie up traffic. So I've looked at it. I'm confident. I understand there are residents that disagree with me. But I've been doing this for going on 28 years and I've been involved in every major fire and we're able to get people out.*

The FPP accounted for Johnston Road not being used for evacuation. Even if Johnston Road was unusable as described by the commenters, the potential inability to use that road does not affect the Project's overall fire safety because this concern was contemplated by the FPP that included contingencies for temporary refuge should evacuation not be possible. As stated in the FEIR on page 8-173, the potential for emergency responders to direct use of the dirt road was not relied upon in safety findings by the Court of Appeal. The Court addressed the possibility that that evacuation may be unavailable:

Further, the EIR and its supporting wildfire-related studies do not ignore a scenario where evacuation routes become unusable. The EIR and fire plan evaluate 'the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors,' explaining that the Project adopted an alternative approach to implement fire protection and evacuation measures that meets fire code requirements. Widening [CCD] was not the sole method to lessen the risks. The Project clusters residential development so as to minimize proximity of homes to wildland fuels and create a defensible perimeter, and the Project proposes a contingency plan for moving people to temporary refuge locations such as homes or the club house... (Appellate Decision, page 54-55 [emphasis added]).

The Appellate Court goes on to explain that the County is entitled to believe its fire officials, experts by virtue of their jobs and years of experience, over the opinion of other experts who provide competing conclusions or opponents to the Project.

To the extent respondents challenge those measures as inadequate or ineffective mitigation, we conclude the board was entitled to choose to believe the fire officials who signed off on them... [and t]he EIR's conclusion that Project fire safety measures reduce fire hazards to a level of insignificance is supported by substantial evidence, namely the fire-related expert studies (Appellate Decision, page 55).

Degraded Johnston Road Connection. Regarding the degraded state of the dirt road connecting to Johnston Road, it is possible that abutting property owners have ceased whatever amount of maintenance they previously provided. As stated above, the road was considered “passable” by

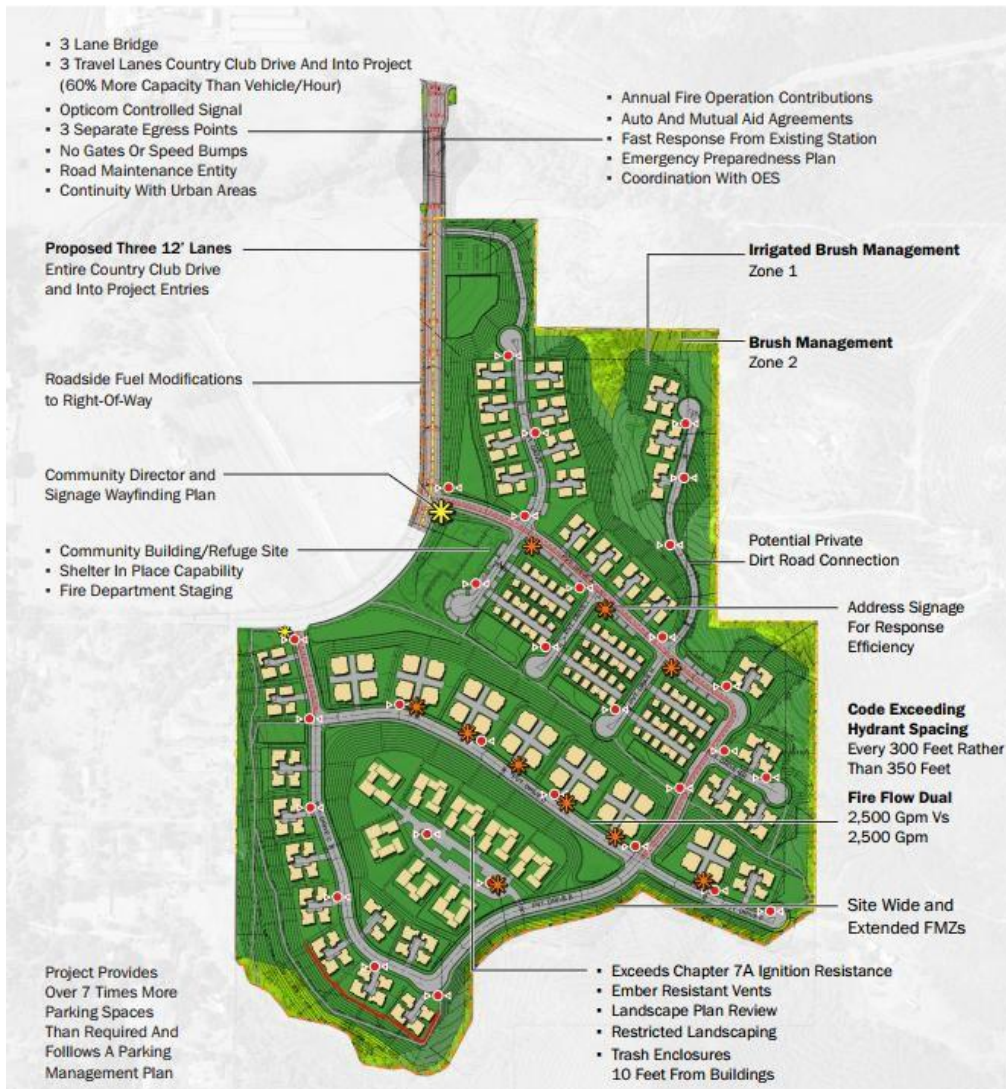
some vehicles by the fire professionals that prepared and/or reviewed the FPP during initial Project review. The route was also expressly addressed in Project responses to comments for the 2025 FEIR, with corrections shown regarding some commenter-submitted photos. (Some photos appear to have not been taken from/of the road based on background photo elements.) It is also noted that a boulder is now located on route. Not present at 2018 Project approval (and in fact, not present based on satellite photographs from May 18, 2024), the boulder shows up by September 11, 2024, following circulation of the GHG updates and knowledge that the Project was moving forward.

Regardless, as referenced in brief clips from a video at the Planning Commission hearing, one resident appears to have relatively recently driven the road. Based on that information alone, it appears that the road (including boulder removal, which could be simply pushed to the side) could be passable and returned to 2018 conditions (i.e., “existing” conditions for CEQA purposes) and would be a logical action for the existing homeowners who live amongst the wildland fuels to undertake in an emergency.

There have also been a number of other misstatements made related to secondary access. First, not having a designated secondary access road is not a violation of California Fire Code. Second, not “every other project” is required to have secondary access, and the Fire Code does not contain a “minimum requirement” of multiple exits. This has been repeatedly clarified in responses to comments. In fact, the Fire Code contemplates that there may be some instances where secondary access is impracticable/infeasible and allows alternative measure(s) to meet this requirement (e.g., alternative compliance).

This has been addressed exhaustively in 2025 FEIR responses to comments as well as in the discussion above under the heading “Secondary Access Determined Impracticable.” As stated above, nothing about the infeasibility of providing secondary access has changed. Similarly, nothing has changed about the conservative nature of the fire-hardened Project being proposed for Board consideration. Following review of 2024/25 comments and responses, the findings of the Fire Authority Having Jurisdiction (FAHJ) also have not changed.

Third, the Project is not seeking a “waiver.” Rather, as explained earlier, complying with the Fire Code in this manner is not a waiver of a code requirement, rather it is considered alternative compliance that allows for dead end road lengths to exceed 800 feet without a designated secondary access road. Again, the Project’s compliance with the Fire Code means the Project is not “loosening” requirements under the codes, or “ignoring rules, regulations, and codes.” The emphatic conclusion is rather that **the Project complies with the relevant codes**. The compliance finding reflects numerous strict design requirements. As indicated in the matrix above, and as illustrated below, the Project proposed a suite of design measures that are the equivalent of secondary access in terms of safety. These were and are detailed in the FPP and FEIR Section 3.3.3, *Hazards and Hazardous Materials* and depicted on Figure 3.1.3-1, *Fire Protection Features*, of the 2018 and 2025 FEIRs. Alternative features also were highlighted in Global Response: Res Judicata and New Information, and are additionally shown below, again based on the original Figure 3.1.3-1.



Evacuation Constraints and Timeframe. References were made to the tragic loss of an Elfin Forest resident during the 1996 Harmony Grove Fire evacuation.⁶ One commenter relayed a response generated by AI to his queries on evacuation. This latter comment is not additionally addressed below. AI is not relied upon for evacuation planning. Based on the information provided, the AI “model” did not contain the many specifics regarding meteorology, roadway options, temporary refuges, fire station proximity, presence of on-site emergency professionals, etc. that

⁶ Per the Olivenhain Fire Safe Council discussion of area fire history (<https://www.olivenhainsfc.org/fire-history>, accessed 8/26/25) the October 21, 1996, fire started west of HGR about 1.0 mile north of Questhaven Road. The blaze raced through Elfin Forest toward Olivenhain before the wind changed course and the fire went into La Costa instead. Three Olivenhain structures burned, and one neighbor was tragically lost. As described in Global Response: 2024 Fire / Evacuation on page 8-164: this tragic death “is not relevant to the current Project. Fire planning, fire-resistant building requirements, evacuation planning, fire station location, and physical conditions related to roads and development in the Project vicinity have changed within the last approximately 30 years. While Mr. Hammond’s loss was tragic, it does not affect adequacy of the Project environmental analyses relative to fire safety.

the actual Project evaluation included; nor could it incorporate the detailed “hands on” knowledge of the local fire experts.

Commenters (including the petitioner in the previous litigation) also noted that additional homes have been added or are planned to be added to the area since the Cocos Fire (HGV, Valiano, and proposed HGV South) which would further complicate and restrict evacuation compared to the Cocos experience, referencing an evacuation analysis provided by the commenter’s Utah-based consultant. Other related comments, relying on the Utah consultant, contend that the “single-lane [CCD] and Harmony Grove Road [HGR]” will be burdened by these additional residents all exiting in a major regional emergency.

However, these comments fail to consider the significant road improvements and changes in the fire environment that accompany these new projects. Specifically:

- HGV provided road improvements that included improving segments of CCD, construction of a bridge connection over Escondido Creek, and construction of a new road to the east (HGV Parkway, which provides an enhanced route east and out of the valley through the HGV-built bridge connection into Escondido). These improvements were contemplated in the 2018 FEIR and have since been completed. See also FEIR Table 8.3.5-1, Harmony Grove Village Roadway Network Assumption Status.
- The Valiano project (approved by substantial conformance, December 6, 2024) will add a new fire emergency access road from Hill Valley Drive to La Moree within the City of San Marcos, providing an alternative route to the north separate from CCD.
- Construction of Citracado Parkway has since been completed as projected in the 2018 FEIR (see detailed discussion in Global Response: 2024 Fire / Evacuation) and would further facilitate future evacuation efforts. The roadway was actually completed in 2024, providing access from CCD all the way to Auto Park Way, delivering drivers directly into urban Escondido.
- The Project will construct CCD with three minimum 12-foot-wide travel lanes, from the intersection of HGR and CCD to the southernmost Project entrance, providing additional capacity for emergency vehicle access and evacuation. The Project will include three access points with CCD, a short distance (from 0.1 to 0.25 mile) to HGR. At this point, there are at least three different route options toward urbanized Escondido or San Marcos (see depiction below regarding access/egress roads).

Similarly, such comments do not contemplate the decreased risk of home ignition within new developments, such as the Project, HGV or Valiano. Projects within fire hazard zones are required to provide levels of planning, ignition-resistant construction, access, water availability, fuel modification, and construction materials and methods that have been developed specifically to allow safe development within these areas. Moreover, master-planned communities like HGV are built at land use densities that are not only safer for the residents within HGV but the developments can also function as large, irrigated fire breaks that would be expected to modify fire spread by

preventing large scale wildland fires from spreading across that project site. (Refer to Global Response: 2024 Fire / Evacuation for additional discussion.) As illustrated in the diagram above, the Project includes a number of measures that exceed the Fire Code, including FMZs that surround the development footprint and exceed County and RSFFPD standards. The Appellate Court concluded that the Project identified several PDFs that functioned as:

a layered fire protection system designed to current codes with “site-specific measures that will result in a Project that is less susceptible to wildfire than surrounding landscapes and that would facilitate firefighter and medical aid response as well as project resident evacuation in a wildfire emergency (Appellate Decision, page 35).

Finally, expecting evacuation to occur all at once in any location is unrealistic and simply not done. As explained in detail in the RFEIR (pages 8-162 and 8-163) the recent evolution of evacuation management has incorporated technological solutions for evacuating smaller populations as part of a phased approach which meters evacuating vehicles out over a longer timeframe when advantageous to do so. However, evacuations that include large populations involve traffic congestion and are managed events. The SDCSD during the HGV South Planning Commission Hearing in 2018⁷, expressed confidence that SDCSD could safely evacuate HGV and the Elfin Forest area.

The comments provided by the Utah consultant were answered in full in responses to Comment Letters O6a and O6b and with respect to res judicata in Section 8.7.1.5 of the RFEIR, page 8-107. Analogous comments were also made in 2018 by another consultant hired by EFHGTC. The Court’s response was succinct and similarly would apply to the conclusions of the new Utah consultant. As stated on page 8-114 of the FEIR:

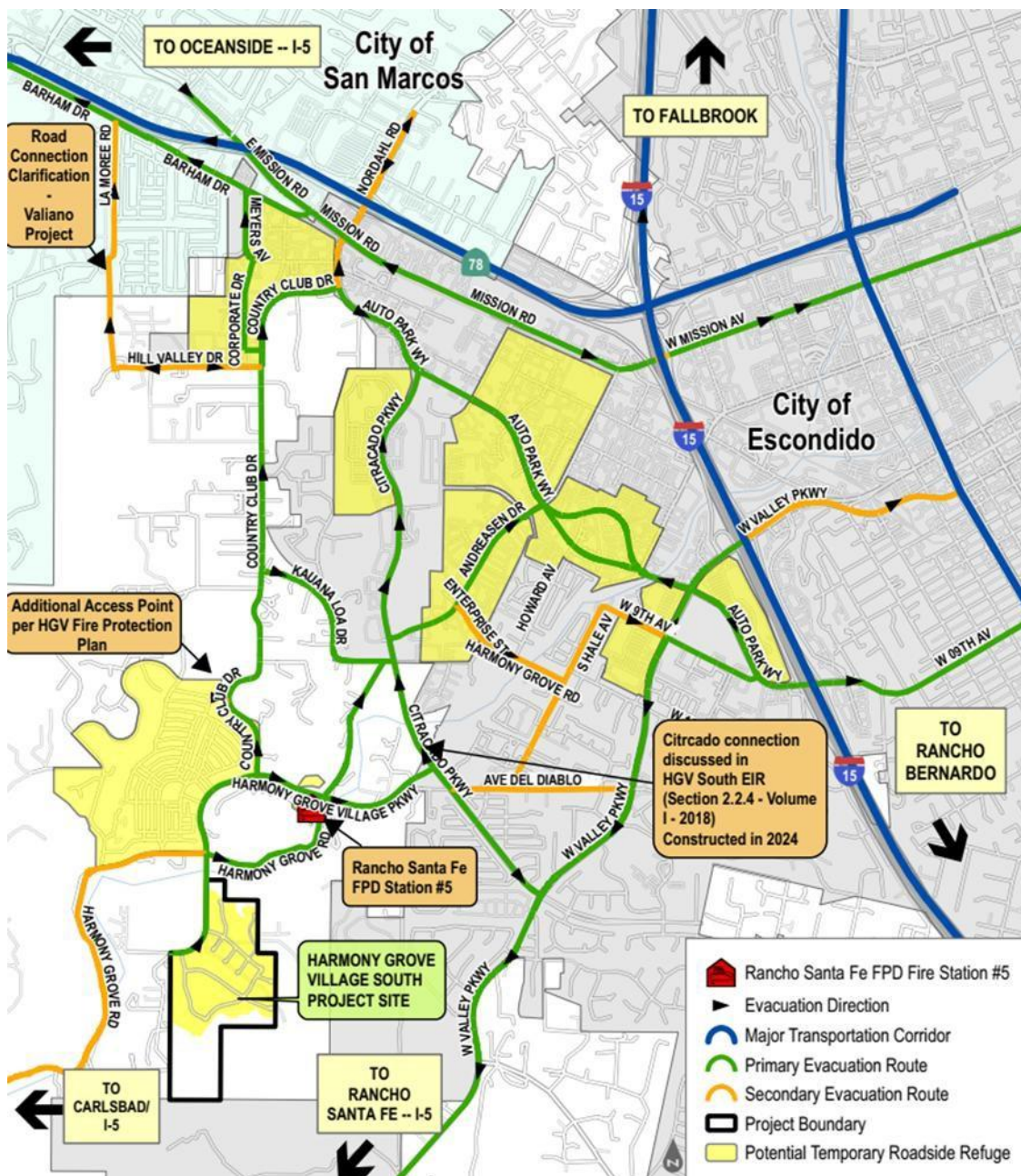
Respondents’ arguments concerning the analysis of evacuation times are unavailing. The EIR engaged in a calculation of the evacuation time on [CCD] using the capacity of vehicles per hour, in keeping with the formula set out in the County’s Operational Area Emergency Operations Plan (Appellate Decision, page 53 [emphasis added]).

As addressed in the Global Response: 2024 Fire / Evacuation, the information introduced by the comments did not consider all the relevant information and did not raise material new information. For additional information, note that specific discussion was provided in responses to comments that address “safe” roads for evacuation (ReOb-5), assumed intersection control during evacuation (ReO6b-6), an incorrect assumption that evacuees would only be “safe” once they are north of the CCD and HGR intersection (ReO6b-7), simultaneous evacuation of HGV South and surrounding

⁷ Planning Commission Hearing (https://sdcounty.granicus.com/player/clip/2657?view_id=12&redirect=true) at approximately 4 hours 42 minutes.

community (ReO6b-8), discussion of variations in wildfire spread and potential to temporarily shelter on site (ReO6b-9), and safety of legacy residents (ReO6b-11 and -12).

Evacuation Plan Regional Evacuation Routes. Additional comments incorrectly noted that the Project did not present a regional evacuation plan but focused only on the Project locale. This simply ignores the actual analysis in the Project Evacuation Plan which considered the Project and Project area, specifically the residents living to the south of the Project that would benefit from the CCD enhancements from Valiano as well as the Citracado Parkway improvements anticipated in the 2018 FEIR. The plan also looked at roads into both San Marcos and the City of Escondido.



As provided in the FEIR in Global Responses: Res Judicata and New Information and 2024 Fire / Evacuation, the depiction is based on Figure 2 of that plan, with the addition of the La Moree exit.

As shown on the above depiction, Citracado Parkway provides an alternative north-south route if CCD is closed, with two ways to access it from HGV Parkway. It also provides a major connection southerly to West Valley Parkway for evacuees wishing to move south or more easterly. Similarly, moving through the Valiano Project south of Hill Valley Drive would also avoid a substantial section of CCD. These alternative routes provide availability to divide traffic moving northerly if it is not diverted altogether to the east, addressing the commenter's concern over potential CCD closure.

It is also noted that the 2016 Rohde and Associates *Wildfire Risk Analysis*, which has been and is on the County Project website, specifically addresses risks as well as evacuation routes in the vicinity. The Local Fire History Map addressed fires from 1910 and regional text is provided on pages 6 and 7.

The Harmony Grove region is within an historic wildfire corridor. Santa Ana wind driven fires typically begin east of the area and travel through Harmony Grove, and threaten Elfin Forest, San Marcos, Encinitas, Escondido, Carlsbad, Rancho Santa Fe, and other communities nearby. In addition to the 2014 Cocos wildfire, other regional historic wildfires in proximity to the proposed development site include: the Del Dios Fire of 1997 which consumed 3,000 acres, the 1996 Harmony Grove Fire caused one fatality 7 and consumed 125 homes and burned over 8,000 acres, the 1991 Paint Fire which burned 3,000 acres, and an unnamed fire in 1943 that burned 40,428 acres. The regional average fire return interval is 7 years, considering all historical wildfires within 3 miles radius. Many of these fires denuded slopes of vegetation and flood cycles followed, which could impact Escondido Creek near the project site if feeder-watershed areas were burned.*

It also specifically addresses HGV (addressing the refuge areas provided in different locales associated with that project) as well as the legacy residents located in the vicinity of HGV South (and consistent with HGV South evacuation and temporary refuge analyses).

Also, the Rohde and Associates *Wildland Urban Interface Fire Emergency Plan* (also on the County Project website since 2016) is clearly a regional document. It addresses both new and older intermix conditions, and identifies entrapment threats along Escondido Creek, in the "Spiritualist Camp" along upper Cordrey Road and Crestwind Drive areas. It addressed powerlines between Harmony Grove and Encinitas, wood bridges across Escondido Creek, equine and other large animals in Harmony Grove and Eden Valley, hikers in Elfin Forest Recreational Preserve, Questhaven Retreat at the top of a ridge north of Escondido Creek, priorities in evacuation, staging areas (south of the HGR/CCD intersection, as well as at Elfin Forest Road and Questhaven, the Lake Hodges parking lot, Palomar Medical Center, and into Escondido), and evacuation assembly points. This is clearly a regional plan.

The SDCSD looked at the Project, considered it in context with the larger area, and determined that they could amass 100 deputies if needed to manage an evacuation event (Captain Brown, 2018 Planning Commission Hearing, beginning at 4 hours 45 minutes). Specific to technical professionals' opinion regarding regional issues, please note that as cited in the Appellate Court Decision on pages 48 and 49 (text provided in the discussion on "Secondary Access Determined Impracticable," above).

The presence of surrounding communities and both expected and likely future fire events are old news. Nothing new is presented here that differs from conditions known during Project document preparation. As noted in the 2018 FEIR in the Project Description on page 1-27 (emphasis added):

Because the development is so far along in construction (homes were available for sale in May 2015) presence of that project is included as a baseline environmental condition (an existing condition) in this EIR... In this rapidly changing existing setting, this approach is considered the most analytically conservative and of most informational value. It takes into consideration the shifting nature of the area, and does not tie analyses to a point in time which has already changed since the NOP issuance.

The concept of HGV inclusion as built was important enough to merit a global response in 2018, addressed in Section 8.3.5, *Baseline Conditions*. Both the HGV and Valiano projects were included in the HGV South cumulative projects list, and the existing setting of other area development was well documented in the EIR (see at a minimum, Figure 1-3, *Area Land Uses*, which depicts surrounding development north into San Marcos and east into Escondido). HGV as built was also referenced throughout the EIR where relevant. For example, EIR page 2.2-5 notes that:

As stated under Harmony Grove Village Network Conditions, the HGV project is currently under construction. With the completion of the project anticipated in the near term, a conservative assumption was made that the total traffic generated by HGV would be on the street system prior to the opening day of the Proposed Project. It is therefore included under existing baseline conditions, and assumes the greatest number of trips from that project on the road. The trip assignment taken from the HGV Final EIR was added to the existing 2014 traffic data to arrive at the final existing traffic volume conditions.

Specifically relevant to traffic, the HGV South evacuation time frame of 500 cars per hour per lane (as opposed to the standard 1,900 cars per hour per lane) specifically included slower speeds for evacuation conditions and accommodates the anticipated large vehicles with animal trailers – a use not allowed for HGV South. ***Clearly, those large animal trailers would be associated with area (i.e., regional) uses. They would not be coming from HGV South.***

As the Court stated: “**We conclude the EIR’s discussion of evacuation routes and timing satisfies CEQA requirements**” (Appellate Decision, page 51). This is **emphatically not new information**. Please also refer to Global Response: Res Judicata and New Information.

Consistent with the Court’s finding, note that the fire professionals who have reviewed plans and presented testimony at Project hearings and who will be present at the Board Hearing on October 1, 2025, evaluate ability to evacuate relative to all who will be directed to do so. They do not look at evacuation in an isolated and unrealistic bubble. Their job is to get everyone out (legacy residents, new community members, etc.), as well as the individuals generally out last – the emergency personnel. Again, as the Court stated:

“We conclude the EIR’s discussion of evacuation routes and timing satisfies CEQA requirements” (Appellate Decision, page 51).

Last Resort Temporary Refuge / Shelter in Place. Comments noted that potential for sheltering in place comprises “wishful thinking” as individuals who want to “get out” will leave regardless of direction provided by fire emergency professionals, that lack of secondary access is not addressed by installing more hydrants, that the Community Plan was designed to protect against entrapment during wildfires, and the potential for rapid change in fire behavior as seen on day 2 of the Cocos Fire when actions characterized as “mop up” by the commenter quickly morphed in a “full blown rager” in less than 10 minutes.

Relative to potential for temporary sheltering in place being “wishful thinking” as a projection of anticipated future responses, this cannot be directly answered other than to state that area residents are expected to be law-abiding citizens who will contribute to the overall safety of themselves and their neighbors by following direction from qualified emergency personnel with knowledge of the regional condition – whether it is to evacuate or to shelter at an appropriate location.

Regarding the lack of secondary access not being addressed through more hydrants, the commenter is correct. It is suggested, however, that the commenter look at the underlying purpose of evacuation, which is to attain safety. **The additional number of hydrants is one of a suite of design elements that harden the Project against fire.** It allows for easier and more numerous hookups for hoses and is one of the many elements that directly contribute to fire professional assessment that the Project can provide temporary refuge. *Since that refuge has been repeatedly acknowledged as open to legacy residents in the Project area, it directly affects their ability to exit what may be a residence not built to current code, or potentially surrounded by flammable vegetation, and attain a nearby site that has had large swaths of flammable vegetation modified, is irrigated, and contains both structures and open space identified by fire professionals for refuge.*

As stated in Response to Comment ReO6b-11:

While the preferred approach is always evacuation from wildfires, the Project design and enforced maintenance over time results in a landscape and buildings that are

built for the types of wildfire that may occur in the area and would not require evacuation if it was considered unsafe to do so. The contingency option of on-site refuge or sheltering is an accepted component of new, master planned communities.

This becomes especially important when one takes into account the very real events that can take place in a fire. Winds can quickly and unexpectedly shift, as mentioned in the comment regarding going from a “mop up” event to a “full-blown rager.” Also, one cannot always assume the exact origin of a fire. If it begins on your property boundary, it can become threatening much more quickly than if it is miles away and being monitored by professionals. The commenter is correct that there may be very little time to even notify fire officials of a fire, much less have them be able to respond directly to the site in time. Given these understandable concerns about potential wildfire events and speed of fire movement, the rejection of Project elements that could actually offer succor is confusing.

If the Project is approved, it will convert a two-lane road with an Arizona crossing under dense vegetation to a hardened section of CCD and much safer passage over Escondido Creek. These Project design elements would actually help existing residents south of the Project get to broader evacuation route options (north, west, and east) more quickly and with much less potential for overburn from tree canopy than currently exists. The three-lane road proposed by the Project would also facilitate arrival of emergency responders. And where there is no time to inform emergency responders, and certainly not time for them to respond, within a constrained time frame, limited time might be well used for a nearby resident to move themselves a few hundred feet down the road to a fire-hardened community, where it would be possible to weather the fire in safety until evacuation was again possible. The Project provides that option.

In fact, the Appellate Court concluded that the Project considered temporary refuge as a “**contingency option** where evacuation routes are rendered unsafe” (Appellate Decision, page 48) and identified a number of design features that would function as:

a layered fire protection system designed to current codes with ‘site specific measures that will result in a Project that is less susceptible to wildfire than surrounding landscapes and that would facilitate firefighter and medical aid response as well as project resident evacuation in a wildfire emergency’ (Appellate Decision, page 35 [emphasis added]).

Access / Egress for “Other Projects.” Contrast was drawn between HGV South and HGV, which a commenter notes “has four exits onto two roads” for evacuation and the Valiano Project, which has fewer homes but was required to provide secondary access via La Moree.

Relative to numbers of exits from HGV, it is noted that HGV physically abuts two roadways, whereas HGV South physically abuts one. HGV evacuees would exit onto either CCD or HGR and then follow the same options for evacuation as shown in the Project Evacuation Plan; i.e., having options to travel north, east, or west from the vicinity of the HGR and CCD intersection.

The number of exits from Project property onto the abutting roadway is three for HGV South. Once on CCD, the point at which vehicles could be directed north, west, or south, would occur in a maximum of 2,010 feet. In fact, an HGV resident living in the vicinity of Long Trot Drive would have to travel approximately 4,800 feet from home to access CCD, whereas HGV South residents would travel substantially less (a worst-case distance of approximately 3,800 feet from the farthest home from CCD to the intersection with HGR). In fact, existing residents south and west of the Project also would generally travel less than the noted 4,800 feet and would accomplish part of that route on Project improved, widened, and vegetatively controlled improved CCD.

Relative to why Valiano may have been required to provide secondary access when the number of units is fewer, the two items are unrelated. Fire safety requires professional evaluation of which design elements or remedies best protect residents, and those criteria are not tied to number of residents. Each life is considered important and decisions are not made based on danger to one versus many. Rather, consideration is based on constraints and opportunities. In the case of Valiano, an option existed for improvement of an existing dirt road. For HGV South, topographic constraints resulting in grades, road width and turn radii that do not meet secondary access requirements and resident opposition eliminate potential for providing secondary access. As a result, **and in compliance with Fire Code requirements, a suite of design measures was developed that comprise the equivalent of secondary access in terms of safety.** Please refer to discussion under “Secondary Access Determined Impracticable,” above.

Project Topography, Vegetation and Associated Analysis. Comments note that the Project is in a topographic “bowl,” is located within a very high fire hazard safety zone (VHFHSZ), and/or “surrounded” by thousands of acres of open space. These issues were specifically addressed in Global Responses: Res Judicata and New Information, as well as 2024 Fire / Evacuation. As noted, the Project’s location relative to setting, as well as presence in a VHFHSZ, were all disclosed and discussed in the FPP. In terms of topographic reference, the term “bowl” can be interpreted to indicate a constrained or closed-in location with a bottom of a certain elevation, surrounded by topographic features of generally consistent heights. Here, the Project is located at the southern extent of a long valley of various widths, with the highest topographic features to the west, lower (but still notable) features to the south, and more open areas with intermittent hills to the east and north. It is not a tightly constrained topographic feature.

The issue of the site being in a VHFHSZ was specifically addressed on page 8-104 of the FEIR. The issue had been so frequently discussed that it made the Appellate Court Decision text (emphasis added):

“[t]he final EIR acknowledges that the Project lies within an area statutorily designated as a ‘Very High Fire Hazard Severity Zone,’” (Appellate Decision, page 33), and that “[b]oth Elfin Forest and Harmony Grove are rural communities in very high wildland fire threat areas” (Appellate Decision, page 4).

Critical environmental criteria were clearly incorporated into the modeling, not ignored. Fire behavior modeling assumed worst case habitat, relevant slopes, and Santa Ana winds, and also used a model that assumes higher flame height and faster spread rates for chaparral scrub than actually usually occurs. As stated on page 8-167 of the FEIR (emphases added):

*Fire behavior modeling results using FM4 exceed observed fire behavior in all but the most extreme conditions. this model is rarely used in modern fire behavior modeling due to the release of more customized southern California models which are more accurately reflective of (and reduce) the FM4 fuel model longer flame length, faster spread rates and greater heat output assumed for chaparral fuels, particularly like those found near the HGV South Project (2018 FPP Appendix E page E-2). **Because the conservative (overpredicting) FM4 fuel model was applied, however, the resulting fire behavior information represents conditions that are worse (i.e., more conservative) than those actually occurring at the site.** Because of this modeling effort and its results, the HGV South analysis is considered consistent with the conditions described in comments generally concerned about increase in fire number and intensity due to climate change.*

The Appellate Court concludes that:

We conclude the EIR contains a CEQA-compliant discussion of the potential wildland fire risks or exacerbation caused by the Project and the fire risks in the Project's vicinity and that substantial evidence supports its conclusion that the Project measures would reduce them to a level of insignificance (Appellate Decision, page 40).

Adjacent Roadways and Potential Constraints. Comments note the narrow nature of area roads and anticipated closure of those evacuation routes due to heavy growth of burnable fuels on each side of narrow lanes, as well as difficulty in turning a horse trailer around on them, and concern that CCD is the only exit for HGV South, as well as existing residents on CCD, Cordrey Drive, and Cordrey Lane. One commenter cited difficulties in evacuation via Elfin Forest Road into San Elijo. This latter comment is noted but focused on issues more germane to Elfin Forest residents rather than those of HGV South and nearby residents, miles to the east of Elfin Forest. It is noted, however, that the Elfin Forest portion of the 2024 Elfin Forest Harmony Grove Community Evacuation Plan addresses potential to direct such evacuees to stop at HGV, for refuge, as necessary if San Elijo is unavailable.

Relative to heavy growth of burnable fuels on each side of narrow lanes and difficulty in turning horse trailers around, these concerns do not actually apply to the Project vicinity. Commenters are reminded that the roads in the immediate vicinity of HGV have already been improved in terms of width and roadside fuel management. CCD north of HGR to HGV Parkway, HGV Parkway itself, and HGR west of CCD to Wilgen Drive were improved by HGV. Those roads have pathways or sidewalks abutting them, and maintained landscaping (consistent with Fire Code requirements)

along their landscaped and maintained frontages. Similar improvements and a three-lane road capacity would be provided by HGV South if the Project is approved, including the currently very constrained crossing of Escondido Creek.

As additionally discussed below, new roads have also been built or planned that result in different conditions than those experienced during the 1996 “Harmony Grove” Fire or 2014 Cocos Fire events. This was specifically addressed in Global Response: Res Judicata and New Information on pages 8-107 and -108.

...the Cocos evacuation process occurred before completion of all roadway improvements by HGV, which included improving segments of CCD and providing a new road to the east (HGV Parkway, which provides an enhanced route east and out of the valley through an HGV-built bridge connection over Escondido Creek into Escondido). These improvements were required to be completed as part of the HGV project and were described in the 2018 FEIR. The Valiano project (approved December 6, 2024) will add a new fire emergency access road from Hill Valley Drive to La Moree within the City of San Marcos, providing an alternative route to the north separate from CCD...Also, Citracado Parkway has since been completed as projected in the 2018 FEIR (see detailed discussion in Global Response: 2024 Fire / Evacuation) and would further facilitate future evacuation efforts. The roadway was actually completed in 2024, providing access from CCD all the way to Auto Park Way, delivering drivers directly into urban Escondido.

The issue of large animals (specifically horses) was raised during the EFHGTC presentation at Planning Commission, as well as by a 2024 commenter who stood to talk during that presentation. It is also noted that although there is no nexus requiring road improvements for large animal movement as the HGV South Project does not allow large animals, **2018 analyses assumed animal trailers on the road**, which was part of the reason that evacuation analysis conservatively estimated 500 vehicles per lane per hour. As relayed to EFHGTC in response to an October 7, 2024, letter written on their behalf by SMW, on FEIR page RTC-ReO6a-45:

Specifically with regard to the consideration of evacuating livestock from existing residences, the Project evacuation analysis used a very low lane capacity rate of 500 vehicles per hour (compared to the standard capacity of 1,900 vehicles per hour per lane) to account for large vehicles and trailers associated with livestock evacuations. It is also noted that temporary roadside refuges as shown on Figure 2 (page 7) of the Project Evacuation Plan on the County Project website (with an excerpt depicted in Global Responses: Res Judicata and New Information [as well as 2024 Fire / Evacuation]) include areas like parking lots and irrigated park areas, which could accommodate large animal trailers during evacuation temporary refuge stops. Decision making agencies reviewed the approach and accepted the

Project's analysis based on Project analyses as well as their own experience and understanding of the issues.

And in a response written directly to an individual whose property abuts the Project boundary, standing at the podium as part of the EFHGTC presentation at Planning Commission (see FEIR pages RTC-Rel7-2 and -3):

Regarding individuals south of the Project, road conditions would be expected to improve relative to moving large animal trailers in this area. [CCD] south of [HGR] would have wider, as well as an additional, lane(s). The narrow (and vegetation impinged) Arizona crossing of Escondido Creek would be improved with a bridge and widened to three vehicular lanes as well as an equestrian path, so that owners could choose to ride their horses out.

Wildfire potential requires animal owners in rural areas to plan for these events and create contingencies when evacuation may not be possible. This is beyond the purview of the Project as it relates to existing properties. Please also refer to the Evacuation Challenges and Potential Hazards Posed when Evacuating Large Animals portion of the 2018 Global Response: Adequacy of Emergency Evacuation. It is also recommended that the Fire Safe Council consider a system/application like HorseAlert that facilitates volunteers to assist in the event of an evacuation. Regardless, as shown on the Project Evacuation Plan on the HGV South portion of the County website, there are areas identified as temporary refuge areas in HGV, and such areas also could be used in HGV South for trailers during pause in evacuation activities. (It is further noted for information that the HGV South FPP evacuation analysis used a capacity rate of 500 vehicles per hour to determine evacuation times in an effort to be extremely conservative. This is well under the capacity of 1,900 vehicles per hour per lane. The 500 vehicles per hour rate equates to a 2-mile-per-hour[mph] vehicle speed [slower than average human walking pace]. This slow anticipated evacuation speed incorporates consideration of traffic congestion and livestock trailers towed by large vehicles.)

It is also noted that a horse/large animal staging area is currently planned for the RSFFPD Station 5 located on Overlook Point Road off of HGV Parkway in Harmony Grove. As of August 2025, RSFFPD is currently actively engaged in clearing vegetation and bringing in railing for the horse corral. That facility would be wholly accessed via the 50 plus-foot wide CCD and HGV Parkway roadways from the HGR intersection that were improved as part of HGV and subsequently built. And of course, if HGV South is approved, the same width road would replace the currently approximately 20-foot-wide crossing of Escondido Creek, with associated vegetation management all the way to the southern Project entrance. These existing and proposed improvements would notably minimize flames from encroaching vegetation that evacuees may have experienced in 2014.

4. SMART GROWTH V. SPRAWL

Smart Growth v. Sprawl. Some comments cited “smart growth” and believe the Project would constitute “sprawl.” The 2018 EIR, as well as the 2024 GHG recirculation of Subchapter 2.7, and numerous responses in both the 2018 and 2024/25 responses to comments have addressed (incorrect) repeated allegation of sprawl and associated inconsistency with smart growth principles. As stated most recently in response to the July 2025 letter submitted on behalf of EFHGTC:

Concerning the Project’s location, the Town Council has consistently portrayed the Project as rural, away from services and transportation. However, nothing can be further from the truth. The Project is located in close proximity to two cities, San Marcos and Escondido, which contain shopping, educational and job opportunities, and public transit hubs. HGVS is within a 2-mile radius of expansive employment centers and a concentration of urban and mixed land uses that include Palomar Hospital, Stone Brewery, numerous “big box” retail stores with surrounding retail, apartment complexes, mobile home parks, and a large-scale automobile mall. The Escondido Research and Technology Center (ERTC; an industrial/commercial employment and services center accessed by [HGR]), and a confluence of regional transportation connectors (I-15 and SR-78), are located within approximately 2.5 miles of the Project site. Finally, this Project is within approximately 3 miles of the Nordahl Transit Station.

Specific to SANDAG smart growth concepts, please note that SANDAG provided a letter in response to the 2018 Revised Draft EIR that is part of the FEIR (see FEIR pages 8-56 and -57). In that letter, they reiterate support for the vision and goals of the County’s General Plan Update, stating:

*SANDAG supports the goals and objectives that are currently laid out in the 2011 County of San Diego General Plan, as they encourage smart, sustainable growth and reinforce the principles set forth in the 2015 Regional Plan... While **SANDAG realizes that general plans are meant to be dynamic documents updated to reflect market forces and population growth and trends, SANDAG supports key land-use principles that preserve natural resources and limit urban sprawl** (emphasis added).*

Continuing from the FEIR conclusion that follows the SANDAG quote (page 8-57) as this relates to the Project specifically:

The Project is fully consistent with this – proposing village extension to incorporate the proposed community and located close to major travel thoroughfares such as I-15 and SR 78 and within biking distance of two cities, while retaining approximately 35 percent of the site in permanently preserved open space.

Therefore, alleged sprawl and consistency with smart growth principles have been previously addressed. The Project is *not* sprawl and *is* consistent with the County General Plan land use strategy incorporating smart growth principles.

Data relative to these issues have also been addressed in the Project EIR since initial circulation of the 2017 Draft EIR through preparation of the 2025 FEIR. A figure depicting area uses (including abutting residential, commercial, light industrial, and hospital uses within 0.5-, 1.0-, 1.5-, 2.0-, and 2.5-mile zones) is provided as Figure 8.3.6-1, *HGV + HGV South Adjacent Land Uses*, and is also now included as Figure 2.7-1. Similarly, extension of a village designation across the street from HGV to HGV South is appropriately addressed in accordance with the County Community Development Model (see detailed discussion of this in 2018 FEIR Volumes I and II as well as in Global Response: Reconsideration of General Plan Amendment Decision). Especially relevant is the following from the Appellant Court Decision (page 66 [emphasis added]):

[W]e must conclude the Project is consistent: the EIR evaluated the associated land uses; reflects County's effort to move future development closer to cities, shopping and employment centers; shows the Project is consistent with vehicle mileage projections; and encourages local walking in keeping with the plan.

5. COUNTY PROCESS

Applicant Did Not File a New Application. Some commenters stated that the Project Applicant filed a new application in 2024, with associated new requirements for *de novo* review. The allegation is untrue. The pre-2018 application remains the current application, as indicated in Project element numbering, all beginning with PDS2015 or PDS2018.

Invalidation of 2018 Approval Does Not Require a Wholly New Review. The form used to correct an EIR is a matter for the local agency to determine on its own based on CEQA and any instructions by the court as may be applicable. (*Protect the Historic Amador Waterways v. Amador Water Agency* [2004] 116 Cal.App.4th 1099). Based on the premise that years have passed since the preparation of the 2018 FEIR, several comments maintain that an EIR for the Project must be prepared “anew.” However, the age of the original environmental document is irrelevant if subsequent events do not trigger the need for further environmental review. (*Snarled Traffic Obstructs Progress v. City & County of San Francisco* [1999] 74 CA4th 793.)

Some commenters incorrectly contend that the Sierra Club⁸ case dictated that a new EIR be prepared for the HGV South Project. In the Sierra Club case the Appellate Court held the Project's GHG mitigation measure did not comply with CEQA, but the Appellate Court left it to the County to reexamine the type of mitigation measure needed, whether additional alternatives were feasible or must be analyzed, or if a new mitigation measure might also require revisions to the other sections of the EIR. In compliance with this decision, the County methodically examined the 2018

⁸ *Sierra Club v. County of San Diego* (December 21, 2021) (case No. 37-2018-00043084-CU-TT-CTL).

FEIR and evaluated the correction required to conform to the Sierra Club decision to determine whether it would result in new or substantially more severe impacts than were disclosed in the 2018 FEIR. The matrix found in the Readers Guide and the analysis in Global Responses: Res Judicata and New Information and Lack of Need for Recirculation demonstrate the County's review of the environmental analyses provided in the 2018 FEIR and its determination that PRC Section 21092.1 and CEQA Guidelines Section 15088.5 does not apply here. The County determined that the changes fall within the scope of the initial environmental review of the 2018 FEIR, and a thorough assessment has confirmed that no new significant environmental effects are anticipated due to these modifications, aligning with CEQA Guidelines.

The County also methodically examined whether the correction to the GHG mitigation measure would result in the need for new feasible project alternatives that would lessen the Project's environmental impacts. The County did not find additional alternatives were needed because the new mitigation measure retains the same goal of attaining net zero GHG emissions after implementing the proposed mitigation measure and PDFs. Also, implementation of the measure would not:

1. result in any new significant impacts;
2. increase the severity of any previously identified significant impact; or
3. affect commitments to implement GHG-related design features.

The proposed mitigation measure would not result in any new impacts because it requires the installation of solar panels on an existing building(s) that fall within the requirements of the exemption provided by CEQA. This is ensured because the mitigation measure is required to conform to the requirements of such an exemption from CEQA.

Several comments incorrectly assert that the County dismissed claims for a new EIR based solely on res judicata. But as described above and in great detail in Volume III of the RFEIR, the County examined the proposed corrections to the 2018 FEIR to determine whether it would result in new or substantially more severe impacts than were disclosed in the 2018 FEIR. The County relied on its technical expertise, and information that includes the previous record, expert memos, technical reports, and the information provided in the response to comments for its conclusion that recirculation of the full 2018 FEIR is not required.

With respect to whether significant new information is now available that triggers the preparation of an environmental document, see Section 8.7.1 in the RFEIR. The County carefully considered the new information and changed circumstances raised by the commenters based on the County's expertise to determine whether CEQA would require recirculation of the Project's EIR. CEQA requires recirculation of an EIR, in whole or in part, when significant new information is added to the final EIR before its recirculation (PRC Section 21092.1; CEQA Guidelines Section 15088.5). As used in Section 15088.5, the term "information" can include changes in the project or environmental setting and additional data or other information. However, new information is not significant unless: (1) the EIR is changed in a way that deprives the public of a meaningful

opportunity to comment upon a substantial adverse environmental effect of the project; or (2) there is a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement (CEQA Guidelines Section 15088.5[a]).

The response to comments provides evidence of the examination of the data characterized as “new information” or “change in circumstance” raised by the comments and demonstrates that the criteria for recirculation were not met. The County relies on its technical expertise, and information that includes the previous record, expert memos, technical reports, and the response to comments that include the sources noted in the preceding paragraph, for its conclusions that recirculation is not required and its determination as stated above, that the changes fall within the scope of the initial environmental review of the 2018 FEIR. Whether an initial environmental document remains relevant despite changed plans or circumstances is a predominantly factual question for agencies to answer by drawing on their particular expertise. As opined by the California Supreme Court in *Friends of the College of San Mateo Gardens*, a court's responsibility on review is only to decide whether the agency's determination is supported by substantial evidence. (California Supreme Court in *Friends of the College of San Mateo Gardens v. San Mateo County Community College* [2016] 1 C5th 937.)

Nor does the decertification of the entire EIR alter the fact that the EIR was litigated, and all issues were resolved. Res judicata is applied even if an agency rescinds approval of a project and decertifies the entire EIR. (*Citizens for Open Government v. City of Lodi* 205 Cal.App.4th at 302 [the court applied res judicata even though the city rescinded approval of the project and decertified the prior EIR].) (See also *Ione Valley Land, Air & Water Defense Alliance v. County of Amador* [2019] 33 Cal.App.5th 165, 172 [whether the EIR has been decertified does not alter the fact that the sufficiency of a component of the EIR has been litigated and resolved].)

Some commenters claim that res judicata does not apply because “new conditions” have arisen, or conditions have gotten “worse” that make res judicata inapplicable. However, new facts alone are not enough to be considered a “changed condition” that would mean res judicata no longer applies; instead, the “changed” condition must be “material” or significant (*Citizens for Open Government v. City of Lodi*, 205 Cal.App.4th at 324-325. See also *Atwell v. City of Rohnert Park*, 27 Cal.App.5th at 701.) The County conducted extensive analysis of each of the comments raised by the public regarding claims that new information or a change in circumstances would void the application of res judicata or require a new analysis and recirculation of the various topics covered in the Project's EIR. See Section 8.7.1.5 et al. of the RFEIR.

It is also noted that the invalidation was entered based on concern that elements of a revised GHG mitigation measure could result in associated changes to other discussion topics in a revised EIR. Although this is an appropriate and CEQA-consistent concern, this was not the case for the Project. As conservatively documented in the recirculated Subchapter 2.7, changes to clauses in mitigation measure M-GHG-1 would result in net zero emissions and its implementation would not result in potentially significant impacts to other resource areas. M-GHG-1 implementation is required to

occur under a relevant CEQA exemption, such as for a ministerial action pursuant to County Zoning Code Section 6954, Solar Energy System for on-site uses, or under PRC 21080.35, and also would not trigger any exceptions to the exemption due to adverse effects to sensitive resources. This is detailed on pages 2.7-39 through -41 in Section 2.7.5.1, *Potential Subsequent Environmental Impacts Related to Mitigation Measure Implementation and CEQA Exemption*, as well as in Global Response: Lack of Need for Recirculation by each environmental topic.

County Staff Did Not Direct RSFFPD to Not Change Documents. Several commenters stated belief that RSFFPD staff were illegally told by County staff that changes to safety documents *were not possible*. This is untrue. No documentation for such direction was provided. One email is attached to a comment letter from SMW, apparently to support such contention. It conveys no more than:

- a statement that as CEQA lead agency the County will address any concerns in the record (it is important to keep EIR-related files in one place for decision makers)
- acknowledgement that the RSFFPD is the Fire Authority Having Jurisdiction for the project and “was responsible for reviewing the Project to ensure it complies with all relevant fire codes”
- that as the Project was previously approved and design has not changed, the County would continue to rely on previous approvals

Note that the first and third contentions are not directions to RSFFPD staff, but statements as to County staff intention absent information to the contrary. Clearly, if the RSFFPD had an issue, the County was open to hearing it. This is proven by the immediately following two sentences from the email from Mark Slovick to David McQuead on May 14, 2025 (emphasis added):

“The County [will] coordinate with the [RSFFPD] on the responses to public comments and hearing presentations once they’re drafted. **We want to make sure the Fire District has an opportunity to review the information**, including how all the comments and concerns have been responded to.”

The email then continues, discussing that hearing attendance is requested and letting RSFFPD know that staff will go over their draft presentation and be available to coordinate potential questions and answers. This planning for presentation is routine for a project that has been inactive for a period of time and/or and for which opposition is anticipated. No one wants to waste decision makers’ time in active research during hearings. The stated coercion is not apparent from the emails provided.

In fact, on July 10, 2025, the County provided Chief McQuead with the full text of the draft Fire/Evacuation discussion in the Project’s 2025 RFEIR wherein he reviewed it and provided minor comments regarding additional evacuation tools available today. At no time did he provide any comments regarding the Fire Code standards that were applied to the Project or that the Project gave him pause.

County Staff Did Not Order RSFFPD to Waive Secondary Access Requirements. It was also noted that RSFFPD is generally “strict” on secondary access but was ordered by County staff “to waive secondary access requirements.” Again, this is untrue.

First, no information has been provided to support the allegation that County staff have instructed RSFFPD to “waive secondary access requirements.” Absent specifics of who, how and when, it’s impossible to specifically respond. If it is somehow related to email communications between the two agencies cited above, the reader is referred to that discussion.

Second, as discussed under “Secondary Access Determined Impracticable,” above, **there is no “secondary access requirement.”** There ***is a requirement to meet an appropriate level of safety, which may be satisfied through either secondary access or alternative means.*** Please see the above-referenced discussion, as well as 2018 Global Responses: Fire Hazards Impact Analysis, and Adequacy of Emergency Evacuation and Access, and 2024 Global Responses: Res Judicata and New Information, and 2024 Fire / Evacuation. **Findings as to Project need for secondary access are strictly the purview of the FAHJ.** There is no known instance on this Project of staff inserting themselves into the process of RSFFPD evaluation of Fire Code 2024 Guidelines Section 5.10.3 required findings.

HGV Portrayed as the “Last Large Development.” Although not relevant to Project environmental analyses, a number of comments state belief that no larger development projects would be processed following HGV. This issue was raised and answered both in 2018 and as part of the 2025 FEIR. As excerpted from 2025 FEIR pages RTC-ReI2-2 and -3:

Any statements made (express, implied, and/or as understood by the commenter) cannot restrict a land use agency from making future decisions required as part of their charter. Plans are guidance documents, but the County makes project approval decisions based on specific proposed project location and design, detailed and objective environmental analysis, and plan conformity review. Based on these considerations, a decision is made to approve or disapprove a project. Guidance documents cannot tie the County’s hands in amending prior decisions. As stated in 2018 FEIR Section 8.3.2.3, General Plan Related Issues, such an action: is contrary to well established California law that prohibits the unlawful delegation of legislative authority. A legislative body may not contract away its police power by restricting future legislative actions to the consent of other property owners. This would be considered an unlawful surrender of the County’s legislative authority and an invalid “contracting” away of its police powers.

6. MISCELLANEOUS FALSE STATEMENTS AND NON-CEQA ISSUE

A number of comments received immediately before Planning Commission made false allegations regarding political donations and a “monetary donation” made to RSFFPD (as opposed to development fees applied to all projects), inaccurate statements regarding fire approval directing the developer to “double the number of units,” characterizations of the developer and his financial

status, and concerns over insurance denial / rate increases. These issues do not affect identification of Project-related environmental impacts or their significance and therefore do not affect the environmental analyses in the FEIR. As such, they are unrelated to the CEQA process, and no response is required.

EXHIBIT 2

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August 18, 2025

VIA EMAIL ONLY

Ronald Ashman, Chair, and members
San Diego County Planning Commission
County of San Diego
Planning & Development Services 5510
Overland Avenue, Suite 110 San Diego,
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E-Mail: PDS.PlanningCommission@sdcounty.ca.gov

Re: Harmony Grove Village South Project hearing August 22, 2025

Dear Chair Ashman and Members of the Commission;

This firm represents RCS-Harmony Partners, LLC ("RCS"), the developer of a master-planned community commonly known as the "Harmony Grove Village South Project" ("Project" or "HGVS") located in the County of San Diego ("County"). This letter is provided in response to a letter written by Shute, Mihaly & Weinberger on behalf of Elfin Forest Harmony Grove Town Council ("Town Council"), dated July 16, 2025, urging the County not to reapprove the Project or certify its Environmental Impact Report ("EIR").

Background

The County originally approved the Project on July 25, 2018, and certified the associated Environmental Impact Report ("2018 EIR"). After several years of litigation, the California Court of Appeals, Fourth Appellate District, Division One ("Appellate Court") found that the 2018 EIR complied with the California Environmental Quality Act ("CEQA") except for one issue related

to its Green House Gas (GHG) mitigation measure (“Appellate Decision”). The Project was also determined to be consistent with the County’s General Plan, except for providing an affordable housing component.¹ RCS has corrected the GHG mitigation measure and added an affordable housing component to the Project to comply with the Appellate Decision.² Because the Project has not changed and is within the scope of the previously certified EIR, the County determined that only the portion of the EIR that pertains to the GHG mitigation measure had to be amended and recirculated for public review.

Subchapter 2.7 of the 2018 EIR has been wholly replaced with a new Subchapter 2.7 that includes the new mitigation measure, updates the GHG analysis, and revises related Project Design Features. A new 2024 Global Climate Change Report prepared by Ldn Consulting, Inc., the 2024 Updated ConSol Evaluation, the Off-site Solar Panel Installation for GHG Mitigation, and Set Aside Fund Review were also included to replace and augment analogous 2018 EIR documents (referred to collectively as “new Subchapter 2.7 ”). The new Subchapter 2.7 is included in the HGVS Final EIR (“2025 FEIR”).

RCS is now requesting that the County reconsider the approval of the Project and certify the Project’s 2025 FEIR. The letter from the Town Council was submitted to the County more than nine months after the 45-day public review period for the recirculation of the new Subchapter 2.7. All comment letters received after the expiration of the public review and comment period are considered late comments and do not require a written response from the County. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) The County has elected not to respond to the late letter from the Town Council; however, it is nevertheless important to correct some of the misstatements made in this letter.

1. **The Project is not required to comply with the County’s 2022 TSG, including the requirement to prepare a VMT analysis.**

Town Council mischaracterizes the 2025 FEIR as relying on the infill threshold exemption described in the County’s adopted 2022 Transportation Study Guidelines (“2022 TSG”), which has since been found noncompliant with CEQA by the California Court of Appeals.³ However, to be clear once again, the Project did not rely on the Infill exemption as the basis for not preparing another VMT analysis. Contrary to Town Council’s misstatements, the infill information was only used as additional data to illustrate that the HGVS site was “infill in nature” with respect to compliance with regional plans. (See 2025 FEIR, 2.7-32) A statement that an analysis has been completed is not the same thing as stating that an analysis is necessary. As explained further in

¹ Elfin Forest Harmony Grove Town Council et al. v. County of San Diego and RCS, 37-2018-00042927, Court of Appeal, Fourth Appellate District (Division One), filed October 14, 2021 (“Appellate Decision”). See also the companion decision Sierra Club v. County of San Diego and Integral Communities, LLC, et al., 37-2018-00043084-CU-TT-CTL, Court of Appeal, Fourth Appellate District (Division One), filed December 21, 2021

² Adding an affordable housing component to the Project has not changed the physical aspects of the Project; ten percent (10%) of the total units will be required to be affordable housing. The affordable housing fix is unrelated to the environment and would not require any change to the Project or EIR.d were part of the recirculation.

³ The California Court of Appeal, Division One, held that the evidentiary record developed by the County failed to support the adopted thresholds, and on that basis held the two thresholds were found noncompliant with CEQA.

the new Subchapter 2.7:

“Although the VMT analysis circulated with the 2018 FEIR was determined to be adequate and sufficient by the Appeals Court, a subsequent analysis has been completed...[I]f a VMT analysis were to be initiated for a new EIR today, the Project would be exempted.”
(Subchapter 2.7, page 2.7-32 Fn 20.)[emphasis added]

The Reader’s Guide reiterates this point:

“[T]he Project is not required to comply with the County’s 2022 TSG, including the requirement to prepare a VMT analysis or, in this case, an infill analysis. Nevertheless, the Project prepared an Infill Analysis to determine if the Project also met the County’s “infill” requirements, as outlined in Section 3.3.1 of the 2022 TSG.
(2025 FEIR, Reader’s Guide, page 15.)[emphasis added]

The Project’s extensive litigation history limits the scope of issues (or future legal challenges) that may be raised regarding the legal adequacy of the 2018 EIR. Portions of the 2018 EIR that were either unchallenged or found to be adequate by the courts (and the concomitant data, analyses, and conclusions) are not appropriate subjects for further discussion because these issues cannot be raised again once settled by litigation. (*Citizens for Open Government v. City of Lodi* [2012] 205 Cal.App.4th 296, 324-325; see also *Planning & Conservation League v. Castaic Lake Water Agency* [2009] 180 Cal.App.4th 210, 229.) The following sums up the public policy for res judicata:

“[A]llowing such claims to be relitigated would impose significant burdens on parties and the courts, could lead to inconsistent rulings or judgments that create confusion and inefficiency, and would be unfair to the party that has already obtained a final ruling in its favor. Res judicata maintains the integrity and predictability of the legal system and encourages parties to bring all their claims and arguments into a single proceeding, knowing that they will not have another opportunity to litigate the same issues.” (2025 FEIR, page 8-97.)

Here, the same parties (Elfin Forest Town Council) to the original litigation involving the same project (HGVS) are once again raising the same issue of VMT, including the same assertion that the VMT calculations are incorrect. Town Council raised this same objection to the Project’s VMT analysis in their June 2, 2017, comment letter to the 2018 EIR, arguing that:

“The project related vehicle miles traveled (VMT) estimate” lacked consistency and accuracy.” (O3b-17.)

Moreover, the Town Council raised the issue of VMT in their 2018 petition for a writ of mandate challenging the County's approval of the Project and 2018 EIR. Their 2018 petition states:

“The EIR for HGVS *failed to make any attempt to quantify either the increase in VMT caused by these projects or transportation-related energy consumption on a cumulative basis.* According to calculations prepared by the Town Council, based on evidence in the record, these cumulative projects would cause VMT to increase by 644,739 miles every day, or over 235 million new VMT per year. This is an astonishing impact that must have been, but was not, analyzed as a potentially significant cumulative impact.” (Petition, page 22). [*emphasis added*]

The VMT issue, however, was resolved by the Appellate Court in 2021. The Appellate Court found that the 2018 EIR adequately addressed this issue, concluding that: “[a]ccording to the EIR, SANDAG’s average trip length is 7.9 miles, and the average distance for Project trips was calculated to be 7.88 miles.” Also, “the analysis of the Project’s efforts to reduce vehicle emissions through design, location, and minimization of off-site vehicle trips complied with the County’s efforts to reduce sprawl and associated emissions” (Appellate Decision, pages 63-64).

Town Council wants nothing more than another bite of the apple by insisting that the Infill Analysis somehow allows them to reopen the VMT issue again. However, the infill analysis being raised as an issue by Town Council has nothing to do with VMT; rather, the analysis would afford a way out of performing a VMT analysis. The Infill Analysis and the Project’s election to prepare an Infill Analysis does not change the fact ***that VMT was raised, litigated, and resolved by the courts.*** Town Council raised VMT throughout its many years of litigation on the 2018 EIR, and the Appellate Court has opined on the same. The doctrine of res judicata prohibits further attempts to litigate the same claim, and it would be unfair to all the parties involved to do so.

Moreover, the 2022 TSG does not constitute “new information” that would necessitate a new VMT analysis and the recirculation of the transportation analysis in the 2018 EIR. The courts have consistently determined that the adoption of new guidelines is not considered significant new information that would trigger further environmental review under PRC 21166. (*Concerned Dublin Citizens v. City of Dublin*, 214 Cal.App.4th at 1319, 1320. See also *Citizens for Responsible Equitable Environmental Development (CREED) v. City of San Diego* [2011] 196 Cal.App.4th 532) [the court found that the effects of GHG on climate change were known or could have been discovered with the exercise of reasonable diligence for an EIR initially certified in the early 1990s].)

More particularly on point, the Court in *Olen Properties Corp v. City of Newport Beach*, 93 CA5th at 280-281, held that the change in CEQA Guidelines from level of service to VMT was not significant new information because the underlying issue was known when preparing the original EIR. Although the new CEQA Guidelines for VMT became effective in 2020 under SB

743, the underlying information was otherwise known or should have been known from at least 2006.

As evidenced by the long litigation history, VMT was an active topic of discussion during the preparation of the 2018 FEIR. The public was not deprived of a meaningful opportunity during the preparation of the 2018 EIR to comment upon any potential adverse environmental effect that the Project would have related to VMT (see CEQA Guidelines Section 15088.5[a]). As noted above, the Town Council both commented on the issue of VMT and litigated the same in court.

The use of the infill data was in addition to an already Court-adjudicated adequate discussion of the Project's surroundings, location, and developed uses in the area. As stated above (including in the commenter's cited footnote from Subchapter 2.7), it was not to provide a new VMT analysis. That had already occurred and still stands.

2. **The County's 2024 Housing Report has nothing to do with the ability of the County to approve the Project.**

The Town Council also seems to be asserting that HGVS does not need to be approved because the County no longer has a housing shortage. They contend that, based on the 2024 County Housing Report, the County is well ahead of its RHNA goals with respect to Moderate and Above Moderate affordability categories.

However, according to the California Housing Partnership, the County's housing situation is a mixed bag, with some progress being made, but with persistent challenges in affordability and homelessness. They conclude that although the County is on track to meet its overall housing goals, providing housing for its residents remains a significant challenge due to rising housing costs. (San Diego County 2025 Affordable Housing Needs Report, May 2025. available at: <https://chpc.net/housingneeds>)

This lack of housing contributes to scarcity and high housing prices that put a strain on the general welfare of all County residents. The Nonprofit Institute of the School of Leadership and Education Sciences paints an even more dire picture:

Housing in 2024 received a thumbs-down rating, primarily attributed to the exorbitant costs associated with both renting and purchasing homes. Only 1 in 10 residents in San Diego County can afford a median-priced home, painting a stark reality of the housing crisis. .. The prices of median-rate housing and fair market rent have continued to climb in the past 10 years, heightening concerns about the accessibility and affordability of housing for San Diegans. ..***The housing crisis continues to persist in our region and is a pressing emergency.*** (available at: "https://www.sandiego.edu/soles/centers-and-institutes/nonprofit-institute/signature-programs/dashboard/housing.php")

Nor is the Project's affordable housing the sole reason for the County to approve the Project. The County has identified the following benefits:

- overall economic benefits (tax revenues), employment opportunities (both increased options and "close-in employment relationships,
- social benefits (related to support of existing Harmony Grove Village; provision of a diverse mix (including affordable) housing;
- promotion of walking and bicycling, access to employment, education, recreation, entertainment, shopping, and services;
- social health amenities; full consistency with the County General Plan relative to proximity to a village and amenities, and proximity to urban medical, shopping, educational, and job opportunities;
- recreational benefits (dedication of public park uses, increased existing and planned regional trail connectivity), biological benefits and open space (with over 31 percent of the site being in a biological open space easement adjacent to an abutting preserve, and enhancement to the biological environment of Escondido Creek), and
- enhanced safety (improvement of access to the south of Escondido Creek in emergency events during both wildfire and flood events, based on a widened roadway, additional travel lane, and a bridge), as well as increased emergency service fees.

These benefits accrue regardless of the County's provision of housing elsewhere and provide a diverse suite of reasons why the Project brings value. Concerning the Project's location, the Town Council has consistently portrayed the Project as rural, away from services and transportation. However, nothing can be further from the truth. The Project is located in close proximity to two cities, San Marcos and Escondido, which contain shopping, educational and job opportunities, and public transit hubs. HGVS is within a 2-mile radius of expansive employment centers and a concentration of urban and mixed land uses that include Palomar Hospital, Stone Brewery, numerous "big box" retail stores with surrounding retail, apartment complexes, mobile home parks, and a large-scale automobile mall. The Escondido Research and Technology Center (ERTC; an industrial/commercial employment and services center accessed by Harmony Grove Road [HGR]), and a confluence of regional transportation connectors (I-15 and SR-78), are located within approximately 2.5 miles of the Project site. Finally, this Project is within approximately 3 miles of the Nordahl Transit Station.

3. Town Council misrepresents the County's position concerning the Fire Protection Plan and misinterprets County Code of Regulatory Ordinances section 81.306.

Town Council's discussion regarding San Diego County Code Section 81.306 is full of misrepresentations and distortions that are aimed at reopening the Project's Fire Protection Plan (FPP) that the Appellate Court has upheld. First, Town Council is attempting to use Section

81.306(d) of the County Code of Regulations as a pretext to relitigate the FPP. Town Council contends that Section 81.306(d) requires the Planning Commission to “obtain and review” a recommendation on the Project’s tentative map from the Fire Chief of the Rancho Santa Fe Fire District (RSFFPD). Under Section 81.306, the Fire Chief is required to make recommendations related to “hydrants, connections to be installed, fire control measures, improvements and compliance with SRA Fire Safe Regulations...”

However, Town Council does not take into account that all of these issues have already been discussed in great detail in the existing FPP and that the RSFFPD has accepted the FPP. Nor has the Fire Code substantially changed since 2018, including on matters that are required to be addressed in Section 81.306, and more, such as access, water, response, construction standards, and defensible space (see Global Response: 2024 Fire / Evacuation, Fire Codes Comparison matrix).

Town Council incorrectly assumes that the recommendation of the Fire Chief must be separate from the FPP that was specifically prepared for the Project, accepted by both the San Diego County Fire Authority and RSFFPD, and covers the same issues identified in Section 81.306(d). Essentially, Town Council attempts to confuse the issue by making it more complicated than necessary. As explained in Section 8.7.4.4 (Response to Comments) of the 2025 FEIR, when the Planning Commission prepares its report to the Board of Supervisors (Board) on the Project’s entitlements, and when the Board takes action on the tentative map, both entities will be able to rely on the Project’s FPP that the SDCFA and RSFFPD have previously accepted. There is nothing in this Code Section that prohibits the use of the FPP for the purposes of Section 81.306(d).

Nor has Town Council offered any evidence as to why it would be a safety issue if the Fire Chief relied on the FPP when making a recommendation to the Planning Commission. Numerous professional fire prevention and protection personnel with hundreds of years of experience combined reviewed the FPP that was prepared by seasoned fire professionals. The FPP was found sufficient by the Appellate Court:

“The issue for us is “not whether the [fire plan, evacuation plan or Wildfire Risk Analysis] are irrefutable or whether they could have been better. ***The relevant issue is only whether the studies are sufficiently credible to be considered as part of the total evidence that supports the [agency’s] finding[s]....***” ’ ” (Chico Advocates for a Responsible Economy v. City of Chico, supra, 40 Cal.App.5th at p. 851.) ***They are here***” (emphasis added) (Appellate Decision, page 45).

The County has already determined that reconsideration of Project entitlements does not require a new FPP. Each of the Section 8.7.4 discussion topics demonstrates that comments have not raised new issues or topics requiring changes to the FPP. The Project’s location and construction requirements have been evaluated and determined to minimize future wildfire risks, enhance the Project’s fire resiliency (as well as that of its immediate neighbors), and protect the

health and safety of local residents and natural resources. Similarly, based on considerations of timing, road capacity, alternative plans, emergency access/egress, and proximity and capacity of fire services, Project wildfire and evacuation analyses are consistent with relevant updated fire regulations and new guidelines. (See Planning Commission Hearing Report, August 22, 2025, page 37.)

Next, Town Council incorrectly characterizes the Project's map application as not being a vested entitlement, even though its application includes "**Vesting** Tentative Map PDS2018-TM-5626. They propose a convoluted argument that because there is no vesting map, a new recommendation from the Fire Chief is required, and a new FPP must be prepared. However, Town Council ignores the Subdivision Map Act provision that requires local agencies to apply only those ordinances, policies, and standards in effect on the date the local agency determines that the **application is complete** when determining to approve or deny an application for a vesting tentative map. (Govt Code §66474.2(a), See also *Bright Dev. v City of Tracy* (1993) 20 CA4th 783 (city, which adopted a resolution "to clarify and memorialize" policy on undergrounding utilities after a vesting tentative map application was deemed complete, could not require the developer to underground off-site utilities as a condition of approval); *Kaufman & Broad Cent. Valley, Inc. v City of Modesto* (1994) 25 CA4th 1577 (city could not charge development fees more than those in effect at the time the vesting tentative map application was deemed complete.) Therefore, applying Town Council's argument to the facts (the Project entitlements include a vesting tentative map), their argument is irrelevant here.

Finally, if the Board approves the tentative map and makes new findings to support its approval, res judicata will bar challenges to the new findings. Similar to *Atwell v. City of Rohnert Park*, res judicata applies to the adoption of the new findings when a project remains unchanged, there is no change in the material facts, and the same claims are being raised as in the original lawsuit. (*Atwell v. City of Rohnert Park* (2018) 27 Cal.App.5th 692, 701, 702.)

Thank you for your consideration of these comments.

Very truly yours,
NORTON MOORE & ADAMS

A handwritten signature in dark ink, appearing to read "Ann Moore", written in a cursive style.

Ann Y. Moore

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September 30, 2025

VIA EMAIL ONLY

Honorable Chair Lawson-Remer
San Diego County Board of Supervisors
1600 Pacific Highway,
County of San Diego
San Diego, CA 92123
E-Mail: PublicComment@sdcounty.ca.gov

Re: Board of Supervisors meeting October 1, 2025, Item 4 (HGV South)

Dear Honorable Chairperson Lawson-Remer and Board of Supervisors;

This firm represents RCS-Harmony Partners, LLC (RCS), the developer of a master-planned community commonly known as the “Harmony Grove Village South Project” (Project or HGV South) located within the Harmony Grove Subarea of the San Dieguito Community Plan Area. The County Board of Supervisors (Board) originally approved entitlements for the Project and certified the Project’s FEIR (2018 FEIR) on July 25, 2018. After several years of litigation, the Project entitlements and the accompanying revised FEIR (2025 RFEIR) will be reconsidered by the Board, at its Oct 1, 2025, meeting. The County of San Diego Planning Commission recommended approval and certification of the documents, respectively on August 22, 2025.

This correspondence has been prepared to address a video-taped excerpt from a September 17, 2025, community meeting, in which Chief McQuead, when receiving repeated questions, said “today you could not pass that project without secondary.” (Chief McQuead is the Fire Chief with the Rancho Santa Fe Fire District (RSFFD), which is the Fire Authority Having Jurisdiction for the Project.) This statement has been taken out of context to support a particular narrative that the Project is not fire safe, which is not based on the record or the Chief’s previous statements.

In fact, Chief McQuead was present at the August 22, 2025, Planning Commission hearing, where he provided testimony in response to the Commission's questions regarding the Project. (See August 22, 2025, hearing, beginning at approximately 2 hours, 19 minutes, and continuing to 2 hours, 29 minutes.) It is notable that he did not make a similar statement.

Instead, he discussed the technical team's approach to fire fighting and evacuation. Chief McQuead specifically noted that his predecessor Fire Chief Tony Michel (who reviewed and accepted the Project's Fire Protection Plan, along with numerous other fire experts) when presented "all the facts" on solutions, methods and measures for the Project concluded that the Project met the intent of the Fire Code. In particular Chief McQuead has emphasized that the following improvements are of particular importance:

- A portion of County Club Drive being improved to three lanes, with two lanes for egress and one lane for emergency access;
- Citra ado Parkway having since been improved in 2018 into a four-lane road connecting from West Valley Parkway into the industrial park; and
- HGV bridge built over Escondido Creek, providing options for evacuations into Escondido or even into San Marcos.

Chief McQuead specifically noted that these improvements would benefit the existing residents in addition to Project residents. As the Chief said:

"We're talking about a Project today, but I've got to deal with a fire that's going to happen today...to meet the biggest incident objective, and that is life safety. And that's twofold – that's not only for the fire fighters and the resources that we ordered going into the incident, but it is also the civilians, the residents that are in the pathway of that fire, or any kind of emergency...one of those big things like we said is evacuation...That three-lane road – as an incident commander – keep it simple. Clear direction, move. That's it."

Moreover, secondary access is not "required" when the dead-end road length is exceeded. The Fire Code requires a level of safety, which can be provided by secondary access, or through a detailed and rigorous process of alternative measures. This is exhaustively discussed in the Project's original FEIR and upheld by the California Court of Appeal Fourth Appellate District, Division One. (Elfin Forest Harmony Grove Town Council et al. v. County of San Diego and RCS, 37-2018-00042927, Court of Appeal, Fourth Appellate District (Division One), filed October 14, 2021.)

Chief McQuead was provided the full text of the draft Fire/ Evacuation discussion in the Project's 2025 RFEIR. reviewed it and provided minor comments regarding additional evacuation tools that are available today. At no time did he provide any comments regarding changes to standards or Fire Codes that gave him pause.

Most notably, however, *there has been no change to these code requirements* since the Project was approved. The Project not only complies with all of the code requirements but would actually exceed six of them. The matrix below lists the requirements of the Fire Code in effect in 2018 and in 2023 (current code).

Item	2014 Code	2023 Code	Current Code Compliance	HGV South Requirement
Fire Flow	2,500 gpm	2,500 to 3,000 gpm	Exceeds	2 x 2,500 dual system = 5,000 gpm
Hydrants	350 feet spacing	Same	Exceeds	300 feet spacing
Road Width	24 foot spacing	Same	Exceeds	24 to 36 feet (one extra travel lane)
Turning Radii	28 feet inside edge	Same	Meets	28 feet inside edge
Grade	Max 20%	Same	Meets	Under 20%
CBC Chapter 7A	Apply all construction ignition-resistant requirements	Same	Meets	Applies stringent Chapter 7A
Hose Pull	150 feet	Same	Meets	150 feet
Turnarounds	Required for lanes over 150 feet	Same	Will Meet	Final project layout/interior streets will be processed through Site Plan Review. RSFFPD will review plans for Fire Code conformance
FMZs	100 feet	Same	Exceeds	FMZs include 110 to 200 feet
Response Time	5 minutes	Same	Exceeds	Less than 3 minutes
Dead End Road Length	800 feet (modifications allowed)	Same	Meets	Findings made and affirmed by the Fire Agency Having Jurisdiction (FAHJ)
Parking	52 spaces	Same	Exceeds	7+ times (343)
Gates	Gates allowed	Same	Meets	No gates proposed

A similar finding is made relative to changes to the Fire Code Guidelines addressing modifications to proposals for secondary access in response to dead-end road length. The matrix below provides a simplified version of the discussion detailed on RFEIR pages 8-123 through -125, and again on pages 8-168 through -187. The analyses confirmed that the Project *met* not only the

five criteria identified in the 2010 Code *and* the 2024 Code, but also the additional two administrative clarifications added to the 2024 Code.

Fire Code 2010 Guidelines: 5.7.1 Required Findings for Alternatives to Standards	Yes?	Fire Code 2024 Guidelines: 5.10.3 Required Findings for Alternatives to Standards
Code authorizes fire code official to approve modification with Findings.	<input checked="" type="checkbox"/>	Same, Done
1. Special individual reasons make strict letter of the code impracticable	<input checked="" type="checkbox"/>	Same, Done “material facts support need for modification” = “individual reasons”
2. Modification complies with intent and purpose of code	<input checked="" type="checkbox"/>	Same, Done “ <i>and provides same practical effect</i> ”
3. Modification does not lessen health, life, and fire safety standards	<input checked="" type="checkbox"/>	Same, Done
4. Documentation of modification must appear in FPP and in FAHJ files	<input checked="" type="checkbox"/>	Same, Done
5. Map shows proposed location of the mitigation/exception measures	<input checked="" type="checkbox"/>	Same, Done “ <i>if applicable</i> ”
	<input checked="" type="checkbox"/>	6. Identify specific section(s) for modification Done 2018 FPP identified Section 503.1.3, Dead End Road Lengths
	<input checked="" type="checkbox"/>	7. Details of the modification or mitigating measure proposed e 2018 FPP “Findings and Mitigation Conclusion.” 26 measures combine to provide highly defensible community, offer equivalent egress, and provide contingency planning if site evacuation is deemed unsafe (pp. 36-42)

The inescapable conclusion is that the Project analyses were (and are) consistent with applicable code elements, and in fact, that the Project has been conservatively designed. The technical professionals who authored, reviewed, and ultimately approved the Project Fire Protection Plan and Evacuation Plan had over 500 years of combined professional experience, and ensured that codes would be met and/or exceeded. It is therefore inexplicable that McQuead’s statement could be interpreted to mean that **this Project** could not be approved “today.” After all, the standards “today” have been subject to detailed review and Project consistency has been confirmed.

Chief McQuead has since provided a letter, dated September 24, 2025, in which he clarifies his earlier statements made at the community meeting. He states his confidence in the fire professionals involved in the original evaluation and references the alternative measures (modifications) that meet or exceed the Fire Code, reiterating that “Our Fire District continues to support the County approved HGVS Fire Protection Plan and Wildland Evacuation.” (This letter

is attached as Exhibit 1, and incorporated herein by this reference) He states (emphasis added):

The modifications [CAL FIRE, County Fire Authority and our Fire District] *identified and implemented to mitigate secondary egress can enhance our Fire District's ability to better serve and protect both the existing residents and future ones during wildfires, structure fires, medical aids, and swift water rescue.*

Regardless, as directly stated by the Court of Appeal the County was entitled to believe its fire officials. The court states(emphases added):

To the extent respondents challenge those [fire protection] ***measures as inadequate or ineffective mitigation, we conclude the board was entitled to choose to believe the fire officials who signed off on them...*** [and t]he EIR's conclusion that ***Project fire safety measures reduce fire hazards to a level of insignificance is supported by substantial evidence, namely the fire-related expert studies.*** (Appellate Decision, page 55)

And,

“We conclude the EIR’s discussion of evacuation routes and timing satisfies CEQA requirements.” (Appellate Decision, page 51)

As shown in the detailed Project review of fire safety issues and as indicated above, the analyses approved in 2018 are directly relevant to today. The analyses are not outdated. *Current standards are met or exceeded.* Therefore, the use of Chief McQuead’s poorly worded and off the cuff statement cannot erase his more reasoned and thoughtful analysis provided in the past regarding the issue of secondary access. Nor does it take away from the conclusions of the fire professionals that the County justifiably relied on.

Very truly yours,
NORTON MOORE & ADAMS



Ann Y. Moore

Enclosure

EXHIBIT 1



Rancho Santa Fe Fire Protection District

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Board of Directors
James Ashcraft, President
John Tanner
Nancy Hillgren
Kevin Barnard
Tucker Stine

Fire Chief
Dave McQuead

September 24, 2025

Dear CAO Ebony Shelton,

I would like to address any confusion that may have resulted from my response to a question during an Elfin Forest community meeting on September 17, 2025, regarding the Harmony Grove Village South (HGVS) project and the issue of secondary egress. Fire Districts such as our Fire District do address secondary egress for projects that are within our jurisdictional area. Fire Districts such as our Fire District can allow modifications whenever there are practical difficulties involved in carrying out the provision of the County of San Diego Consolidated Fire Code. My comment at the September 17, 2025, community meeting addressed how a fire district such as our Fire District can research and apply modifications that meet or exceed the intent of the code. In particular, my comment was intended to apply to a new project coming before our Fire District today without secondary egress, which our Fire District would during the review process look at and identify any potential modifications that could mitigate secondary egress. My comment was not intended to be directed to the Harmony Grove Village South (HGVS) project as I only became the Fire in Chief in December of 2021, was not involved with the review process in Harmony Grove Village South (HGVS) project. The Elfin Forest community did not come into the jurisdictional control of our Fire District until January of 2017. It is my understanding that prior to January 2016 the Harmony Grove Village South (HGVS) project had been in review and study by the County of San Diego and Cal Fire for several years. I am confident in the collaboration of professionals who represented Cal Fire, County Fire Authority and our Fire District that a thorough review was done and that they after several years of review applied key modifications and accepted the 2018 HGVS Fire Protection Plan and Evacuation using the County of San Diego 2014 Consolidated Fire Code. The modifications they identified and implemented to mitigate secondary egress can enhance our Fire District's ability to better serve and protect both the existing residents and future ones during wildfires, structure fires, medical aids, and swift water rescues.

The HGVS Fire Protection Plan and Evacuation Plan as mentioned was reviewed by Cal Fire and the County Fire Authority lead by Fire Chief Tony Mecham and county prevention staff. As stated above with the reorganization of the Rancho Santa Fe Fire

Protection District and CSA 107 in 2016, the HGVS Fire Protection Plan and Evacuation Plan was also reviewed and accepted by then Fire Chief Tony Michel and Fire Marshal Marlene Donner. I respect Fire Chief Tony Michel's knowledge of the fire code and his ability to articulate the fire code that promoted our mission statement to protect life, property and environment through education, preparedness, prevention and emergency response for those we serve. I endorse and support the modifications he provided to mitigate the issue of no secondary egress of the Harmony Grove Village South project. The County of San Diego 2014 Consolidated Fire Code was used by all three fire agencies to thoroughly review and accept the HGVS Fire Protection Plan and Evacuation Plan. Additionally, the work, insight, knowledge and years of experience between Fire Chief Mecham, Fire Chief Michel and prevention staff was instrumental in identifying key modifications to meet and/or exceed the intent of the code and successfully mitigate the practical difficulties of no secondary egress in the HGVS Fire Protection Plan and Evacuation Plan.

It is my understanding that the project was approved in 2018 and then subject to litigation which resulted in the project being sent back to the County of San Diego to address a couple of issues. Our Fire District requested clear direction from County PDS staff in 2024 to understand our role, if any, regarding the already County approved 2018 HGVS Fire Protection Plan and Evacuation Plan. The Fire District was told in writing and verbally that no additional input was needed regarding fire safety plan as those items were litigated, appealed and upheld by the Appellate Court. However, the County did state that the fire district will be asked to speak to the district's position that the project is safe and complies with all applicable requirements in place at the time the application was deemed completed in 2015. The Fire District did not review or provide any further input to the County based on the direction given. Our Fire District continues to support the County approved HGVS 2018 Fire Protection Plan and Wildland Evacuation.

Respectfully,



Dave McQuead, Fire Chief
Rancho Santa Fe Fire Protection District